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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Eleventh session
Kingston, Jamaica
22 March-2 April 1993

DRAFT PROVISIONAL FINAL REPORT OF THE PLENARY

Addendum

Final draft rules of procedure for the organs of the Authority; final draft relationship agreements of the Authority; documents on the Finance Committee and on the administrative arrangements, structure and financial implications of the Authority

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PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY AND
FOR THE INTERNATIONAL TRIBUNAL FOR
THE LAW OF THE SEA
New York, 10-21 August 1992

FINAL DRAFT RULES OF PROCEDURE OF THE ASSEMBLY OF THE INTERNATIONAL SEABED AUTHORITY

Working paper by the Secretariat

I. SESSIONS

Regular sessions

Rule 1*

Regular annual sessions

The Assembly shall meet in regular annual sessions unless it decides otherwise.

Rule 2*

Date and duration

The date of commencement and the duration of each such session shall be decided by the previous session of the Assembly.

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* Rules with an asterisk have been provisionally adopted.

Rule 3* (4) 1/

Notification of members

The Secretary-General shall notify the members of the Authority at least sixty days in advance of the opening of a regular session.

Special sessions

Rule 4* (5)

Convening of special sessions

1. The Assembly may convene special sessions and shall fix the date of commencement and the duration of each such session.

2. At the request of the Council or of a majority of the members of the Authority, the Secretary-General shall convene a special session of the Assembly and it shall meet no earlier than thirty days and no later than ninety days after the receipt of such a request unless the request has stipulated otherwise.

3. Any member of the Authority may request the Secretary-General to convene a special session of the Assembly. The Secretary-General shall immediately inform the other members of the Authority of the request and inquire whether they concur in it. If within thirty days of the date of communication by the Secretary-General a majority of the members of the Authority concur in the request, a special session of the Assembly shall be convened in accordance with paragraph 2.

Rule 5* (6)

Notification of members

The Secretary-General shall notify the members of the Authority at least thirty days in advance of the opening of a special session.

1/ The number in parentheses indicates the number of the rule in document LOS/PCN/WP.20/Rev.1 if its position has been changed in the present document.

Regular and special sessions

Rule 6* (3)

Place of meeting

The Assembly shall meet at the seat of the Authority unless it decides otherwise.

Rule 7*

Notification to observers

Copies of the notice convening each session of the Assembly shall be addressed to observers referred to in rule 93.

Rule 8*

Temporary adjournment of session

The Assembly may decide at any session to adjourn temporarily and resume its meetings at a later date. A regular session shall not normally be adjourned beyond the end of the year.

II. AGENDA

Regular sessions

Rule 9*

Provisional agenda

The provisional agenda for a regular session shall be drawn up by the Secretary-General and communicated to the members of the Authority and to observers at least sixty days before the opening of the session.

Rule 10*

Drawing up of the provisional agenda

The provisional agenda of a regular session shall include:

(a) The report of the Secretary-General on the work of the Authority;

(b) Reports from the Council and the Enterprise, and special reports requested from the Council or any other organs;

(c) Items the inclusion of which has been ordered by the Assembly at a previous session;

(d) Items proposed by the Council;

(e) Items proposed by any member of the Authority;

(f) Items pertaining to the budget for the next financial year and the report on the accounts for the last financial year;

(g) Items which the Secretary-General deems it necessary to put before the Assembly.

Rule 11*

Supplementary items

Any member of the Authority, the Council or the Secretary-General may, at least thirty days before the date fixed for the opening of a regular session, request the inclusion of supplementary items in the agenda. Such items shall be placed on a supplementary list, which shall be communicated to the members of the Authority and to observers at least twenty days before the opening of the session.

Rule 12*

Additional items

Additional items of an important and urgent character, proposed for inclusion in the agenda less than thirty days before the opening of a regular session or during a regular session, may be placed on the agenda if the Assembly so decides by a majority of the members of the Authority present and voting. No additional item may, unless the Assembly decides otherwise by a two-thirds majority of the members of the Authority present and voting, be considered until seven days have elapsed since it was placed on the agenda.

Special sessions

Rule 13*

Communication of the provisional agenda

The provisional agenda of a special session shall be communicated to the members of the Authority and to observers at least fourteen days before the opening of the session.

Rule 14*

Provisional agenda

The provisional agenda for a special session shall consist only of those items proposed for consideration in the request for the holding of the session.

Rule 15*

Supplementary items

Any member of the Authority, the Council or the Secretary-General may, at least seven days before the date fixed for the opening of a special session, request the inclusion of supplementary items in the agenda. Such items shall be placed on a supplementary list, which shall be communicated to the members of the Authority and to observers as soon as possible.

Rule 16*

Additional items

During a special session, items on the supplementary list and additional items may be added to the agenda by a two-thirds majority of the members of the Authority present and voting.

Regular and special sessions

Rule 17*

Explanatory memorandum

Any item proposed for inclusion in the agenda shall be accompanied by an explanatory memorandum and, if possible, by basic documents or by a draft resolution.

Rule 18*

Adoption of the agenda

At each session, the provisional agenda and the supplementary list, together with the report of the General Committee thereon, shall be submitted to the Assembly for approval as soon as possible after the opening of the session.

Rule 19*

Amendment and deletion of items

Items on the agenda may be amended or deleted by the Assembly by a majority of the members of the Authority present and voting.

Rule 20*

Debate on inclusion of items

Debate on the inclusion of an item in the agenda, when that item has been recommended for inclusion by the General Committee, shall be limited to three representatives of the members of the Authority in favour of, and three against, the inclusion. The President may limit the time to be allowed to speakers under this rule.

Rule 21*

Modification of the allocation of expenses

No proposal for a modification of the allocation of expenses for the time being in force shall be placed on the agenda unless it has been communicated to the members of the Authority at least ninety days before the opening of the session.

III. REPRESENTATION

Rule 22*

Representation

1. Each member of the Authority shall be represented by an accredited representative and such alternate representatives and advisers as may be required.

2. Observers shall be represented by accredited or designated representatives, as the case may be, and by such alternate representatives and advisers as may be required.

3. The representative may designate an alternate representative or an adviser to act in his capacity.

IV. CREDENTIALS

Rule 23*

Submission of credentials

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Secretary-General if possible not later than twenty-four hours after the opening of the session. The credentials shall be issued either by the Head of the State or Government, by the Minister for Foreign Affairs or by another competent authority of the sending member of the Authority or observer referred to in rule 93, paragraph 1 (a).

Rule 24*

Credentials Committee

A Credentials Committee shall be appointed at the beginning of each session. It shall consist of nine members of the Authority, who shall be appointed by the Assembly on the proposal of the President. The Committee shall elect its own officers. It shall examine the credentials of representatives and report to the Assembly without delay.

Rule 25*

Provisional admission to a session

Pending a decision of the Assembly upon their credentials, representatives shall be entitled to participate provisionally in the Assembly.

Rule 26*

Objection to the representation

If an objection is raised against a representative, such objection shall be considered by the Credentials Committee forthwith. The report thereon shall be submitted to the Assembly without delay for its decision.

V. PRESIDENT AND VICE-PRESIDENTS

Rule 27*

Temporary President

At the opening of each regular session of the Assembly, the President of the previous session shall preside until the Assembly has elected a President for the session.

Rule 28

Elections

At the beginning of each regular session the Assembly shall elect its President and [ ] Vice-Presidents in such a way as to ensure the representative character of the General Committee. They shall hold office until a new President and other officers are elected at the next regular session.

Rule 29*

Acting President

If the President finds it necessary to be absent during a meeting or any part thereof, he shall designate one of the Vice-Presidents to take his place.

Rule 30*

Powers of the Acting President

A Vice-President acting as President shall have the same powers and duties as the President.

Rule 31*

Replacement of the President

If the President is unable to perform his functions, a new President shall be elected for the unexpired term.

Rule 32*

General powers of the President

In addition to exercising the powers conferred upon him elsewhere by these rules, or by the United Nations Convention on the Law of the Sea, the President shall declare the opening and closing of each plenary meeting of the session, direct the discussions in plenary meeting, ensure observance of these rules, accord the right to speak, put questions for decisions and announced decisions. He shall rule on points of order and, subject to these rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat. The President may, in the course of the discussion of an item, propose to the Assembly the limitation of the time to be allowed to speakers, the limitation of the number of times each representative may speak, the closure of the list of speakers or the closure of the debate. He may also propose the suspension or the adjournment of the meeting or the adjournment of the debate on the item under discussion.

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Rule 33*

Limitation of the powers of the President

The President, in the exercise of his functions, remains under the authority of the Assembly.

Rule 34*

Voting of the President and Acting President

The President, or a Vice-President acting as President, shall not vote but shall designate another member of his delegation to vote in his place.

VI. GENERAL COMMITTEE

Rule 35

Composition

The General Committee shall comprise the President of the Assembly, who shall preside, and the Vice-Presidents [Chairmen of the subsidiary organs of the Assembly shall be entitled to attend meetings of the General Committee and may participate without vote in the discussions.]

Rule 36*

Substitute members

If a Vice-President finds it necessary to be absent during a meeting of the General Committee, he may designate a member of his delegation to take his place in the Committee.

Rule 37*

Functions

1. The General Committee shall, at the beginning of each session, consider the provisional agenda together with the supplementary list, and shall make recommendations to the Assembly, with regard to each item proposed, concerning its inclusion in the agenda, the rejection of the request for inclusion or the inclusion of the item in the provisional agenda of a future session. It shall, in the same manner, examine requests for the inclusion of additional items in the agenda and shall make recommendations thereon to the Assembly. In considering matters relating to the agenda of the Assembly, the General Committee shall not discuss the substance of any item except in so far as this

bears upon the question whether the General Committee should recommend the inclusion of the item in the agenda, the rejection of the request for inclusion or the inclusion of the item in the provisional agenda of a future session, and what priority should be accorded to an item the inclusion of which has been recommended.

2. The General Committee shall assist the President and the Assembly in drawing up the agenda for each plenary meeting, in determining the priority of its items and in coordinating the proceedings of the subsidiary organs of the Assembly. It shall assist the President in the general conduct of the work of the Assembly which falls within the competence of the President. It shall not, however, decide any question of substance.

Rule 38* (39*)

Meetings

The General Committee shall meet periodically throughout each session to review the progress of the Assembly and its subsidiary organs and to make recommendations for furthering such progress. It shall also meet at such other times as the President deems necessary or upon the request of any other of its members.

Rule 39* (40*)

Participation by members requesting the inclusion of items in the agenda

A member of the Authority which has no representative on the General Committee and which has requested the inclusion of an item in the agenda shall be entitled to attend any meeting of the General Committee at which its request is discussed and may participate, without vote, in the discussion of that item.

VII. SECRETARIAT

Rule 40* (41* and 42*)

Duties of the Secretary-General

1. The Secretary-General shall act in that capacity in all meetings of the Assembly and its subsidiary organs. He may designate a member of the Secretariat to act in his place at these meetings. He shall discharge such other responsibilities as are assigned to him by the Assembly under Part XI of the United Nations Convention on the Law of the Sea.

2. The Secretary-General shall provide and direct the staff required by the Assembly and its subsidiary organs.

Rule 41* (43*)

Duties of the Secretariat

The Secretariat shall receive, translate, reproduce and distribute documents, reports and resolutions of the Assembly and its subsidiary organs; interpret speeches made at the meetings, prepare and circulate the records of the session, have the custody and proper preservation of the documents in the archives of the Authority, distribute all documents of the Assembly to the members of the Authority and observers; and, generally, perform all other work which the Assembly may require.

Rule 42* (44*)

Report of the Secretary-General on the work of the Authority

The Secretary-General shall make an annual report, and such supplementary reports as are necessary, to the Assembly at its regular session on the work of the Authority. He shall communicate the annual report to the members of the Authority and observers at least forty-five days before the opening of the regular session.

Rule 43 (45)

Regulations concerning the Secretariat

[Deleted]

VIII. LANGUAGES

Rule 44* (46*)

Languages

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Assembly and its subsidiary organs.

Rule 45* (47*)

Interpretation

1. Speeches made in a language of the Assembly shall be interpreted into other such languages.

2. Any representative may make a speech in a language other than a language of the Assembly. In that case he shall himself provide for interpretation

into one of the languages of the Assembly. Interpretation into the other languages of the Assembly by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Rule 46

[Included as paragraph 2 of rule 45]

Rule 47 (49)

Languages of the Journal of the Authority

[Deleted]

Rule 48 (50*)

Languages of resolutions and other documents

All documents shall be published in the languages of the Assembly.

IX. RECORDS

Rule 49* (51*)

Records and sound recordings of meetings

1. Summary records of the plenary meetings of the Assembly shall be kept in the languages of the Assembly. As a general rule, they shall be circulated as soon as possible, simultaneously in all languages of the Assembly, to all representatives, who shall inform the Secretariat within five working days after the circulation of the summary record of any changes they wish to have made.

2. The Secretariat shall make sound recordings of meetings of the Assembly and of its subsidiary organs when they so decide.

X. PUBLIC AND PRIVATE MEETINGS OF THE ASSEMBLY AND ITS SUBSIDIARY ORGANS

Rule 50* (52*)

Public and private meetings

1. The meetings of the Assembly shall be held in public unless the Assembly decides that exceptional circumstances require that the meeting be held in private.

2. As a general rule, meetings of subsidiary organs shall be held in private.

3. All decisions of the Assembly taken at a private meeting shall be announced at an early public meeting of the Assembly. At the close of a private meeting of a subsidiary organ, the Chairman may issue a communiqué through the Secretary-General.

Rule 51

Private meetings

[Merged with rule 50, as paragraphs 2 and 3]

XI. MINUTE OF SILENT PRAYER OR MEDITATION

Rule 52* (55*)

Invitation to silent prayer or meditation

Immediately after the opening of the first plenary meeting and immediately preceding the closing of the final plenary meeting of each session of the Assembly, the President shall invite the representatives to observe one minute of silence dedicated to prayer or meditation.

XII. PLENARY MEETINGS

Conduct of business

Rule 53* (56*)

Quorum

The President may declare a meeting open and permit the debate to proceed when at least a majority of the members of the Authority are present.

Rule 54* (57*)

Speeches

No representative may address the Assembly without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 55* (58)

Precedence

The Chairman of a subsidiary organ may be accorded precedence for the purpose of explaining the conclusions arrived at by that organ.

Rule 56* (59*)

Statement by the Secretariat

The Secretary-General or a member of the Secretariat designated by him as his representative may at any time make either oral or written statements to the Assembly concerning any question under consideration by it.

Rule 57* (60*)

Points of order

During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with these rules of procedure. A representative of a member of the Authority may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the members of the Authority present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

Rule 58* (61*)

Time-limit on speeches

The Assembly may limit the time to be allowed to each speaker and the number of times each representative may speak on any question. Before a decision is taken, two representatives of members of the Authority may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a representative exceeds his allotted time, the President shall call him to order without delay.

Rule 59* (62)

Closing of list of speakers, right of reply

During the course of the debate, the President may announce the list of speakers and, with the consent of the Assembly, declare the list closed. He may, however, accord the right of reply to any representative if a speech delivered after he has declared the list closed makes this desirable.

Rule 60* (63*)

Adjournment of debate

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two representatives of members of the Authority may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

Rule 61* (64*)

Closure of debate

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the motion shall be accorded only to two representatives of members of the Authority opposing the closure, after which the motion shall be immediately put to the vote. If the Assembly is in favour of the closure, the President shall declare the closure of the debate. The President may limit the time to be allowed to speakers under this rule.

Rule 62* (65*)

Suspension or adjournment of the meeting

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The President may limit the time to be allowed to the speaker moving the suspension or adjournment of the meeting.

Rule 63* (66*)

Order of procedural motions

Subject to rule 57, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the item under discussion;

(d) To close the debate on the item under discussion.

Rule 64* (67*)

Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretary-General, who shall circulate copies to the delegations. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Assembly unless copies of it have been circulated to all delegations in the languages of the Assembly not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

Rule 65* (68*)

Decision on competence

Subject to rule 63, any motion calling for a decision on the competence of the Assembly to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question.

Rule 66* (69*)

Withdrawl of motions

A motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A motion thus withdrawn may be reintroduced by any representative.

Rule 67* (70)

Reconsideration of proposals

When a proposal has been adopted or rejected, it may not be reconsidered at the same session unless the Assembly, by a two-thirds majority of the members of the Authority present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two representatives of members of the Authority opposing the motion, after which it shall be immediately put to the vote.

XIII. DECISION-MAKING

Rule 68* (71*)

Voting rights

Each member of the Assembly shall have one vote.

Rule 69 (new)

Quorum required

[Deleted]

Rule 70* (72*)

Decisions on questions of procedure

Decisions on questions of procedure, including decisions to convene special sessions of the Assembly, shall be taken by a majority of the members of the Authority present and voting, provided that such majority includes a majority of the members participating in the session.

Rule 71 (73)

Decisions on questions of substance

Subject to rule 106, decisions on questions of substance shall be taken by a two-thirds majority of the members of the Authority present and voting, provided that such majority includes a majority of the members participating in the session. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Assembly by the majority required for decisions on questions of substance.

Rule 72 (74)

Decisions on amendments to proposals relating to questions of substance

Decisions of the Assembly on amendments to proposals relating to questions of substance, and on parts of such proposals put to the vote separately, shall be made by a two-thirds majority of the members of the Authority present and voting, provided that such majority includes a majority of the members participating in the session.

Rule 73* (75*)

Use of terms

1. For the purpose of these rules, the phrase "members of the Authority present and voting" means members of the Authority present and casting an affirmative or negative vote. Members of the Authority who abstain from voting shall be considered as not voting.

2. Subject to the provisions of rules 23 to 26 and without prejudice to the powers and functions of the Credentials Committee, the term "members of the Authority participating" in relation to any particular session of the Assembly means any member of the Authority whose representatives have registered with the Secretariat as participating in that session and which has not subsequently notified the Secretariat of its withdrawal from that session or part of it. The Secretariat shall keep a register for this purpose.

Rule 74* (76*)

Deferment of voting on questions of substance coming up for voting for the first time

When a question of substance comes up for voting for the first time, the President may, and shall, if requested by at least one fifth of the members of the Authority, defer the issue of taking a vote on that question for a period not exceeding five calendar days. This rule may be applied only once to any question, and shall not be applied so as to defer the question beyond the end of the session.

Rule 75* (77*)

Deferment of voting upon request for an advisory opinion

Upon a written request addressed to the President and sponsored by at least one fourth of the members of the Authority for an advisory opinion on the conformity with the United Nations Convention on the Law of the Sea of a proposal before the Assembly on any matter, the Assembly shall request the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea to give an advisory opinion thereon and shall defer voting on that proposal pending receipt of the advisory opinion by the Chamber. If the advisory opinion is not received before the final week of the session in which it is requested, the Assembly shall decide when it will meet to vote upon the deferred proposal.

Rule 76* (78*)

Method of voting

1. The Assembly shall, in the absence of mechanical means for voting, vote by show of hands or by standing but a representative of any member of the Authority may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the members of the Authority participating in that session, beginning with the member whose name is drawn by lot by the President. The name of each member of the Authority shall be called in any roll-call, and one of its representatives shall reply "yes", "no" or "abstention". The result of the voting shall be inserted in the record in the English alphabetical order of the names of the members.

2. When the Assembly votes by mechanical means, a non-recorded vote shall replace a vote by show of hands or by standing and a recorded vote shall replace a roll-call vote. A representative of any member of the Authority may request a recorded vote. In the case of a recorded vote, the Assembly shall, unless a representative of a member of the Authority requests otherwise, dispense with the procedure of calling out the names of the members; nevertheless, the result of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

Rule 77* (79*)

Conduct during voting

After the President has announced the commencement of voting, no representative of a member of the Authority may interrupt the voting, except that representatives of members of the Authority may interrupt on a point of order in connection with the actual conduct of voting.

Rule 78* (80*)

Explanation of vote

Representatives of members of the Authority may make brief statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The President may limit the time to be allowed for such statements. The representative of a member of the Authority sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

Rule 79* (81*)

Division of proposals and amendments

A representative of a member of the Authority may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 80* (82*)

Order of voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Assembly shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

Rule 81* (83*)

Order of voting on proposals

If two or more proposals relate to the same question, the Assembly shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Assembly may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 82* (84*)

Elections

All elections shall be held by secret ballot unless otherwise decided by the Assembly.

Rule 83 (85)

Restricted balloting for one elective place

1. When one person or a member of the Authority is to be elected and no candidate obtains in the first ballot the votes of a majority of the members of the Authority present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among more than two candidates obtaining the largest number of votes, a second ballot shall be held. If on that ballot a tie remains among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

[3. If a two-thirds majority is required, the balloting shall be continued until one candidate secures two thirds of the votes cast; provided that, after the third inconclusive ballot, votes may be cast for any eligible person or member. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the two candidates who obtained the greatest number of votes in the third of the unrestricted ballots, and the following three ballots thereafter shall be unrestricted, and so on until a person or member of the Authority is elected.]

Rule 84* (86*)

Restricted balloting for two or more elective places

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the majority required shall be elected. If the number of candidates obtaining such a majority is less than the number of persons or members of the Authority to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled; provided that, after the third inconclusive ballot, votes may be cast for any eligible person or member of the Authority. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Rule 85* (87*)

Equally divided votes on matters other than elections

If a vote is equally divided on matters other than elections, a second vote shall be taken at a subsequent meeting which shall be held within 48 hours of the first vote; and it shall be expressly mentioned in the agenda that a second vote will be taken on the matter in question. If this vote also results in equality, the proposal shall be regarded as rejected.

XIV. SUBSIDIARY ORGANS

Rule 86* (88)

Establishment

The Assembly may establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with Part XI of the United Nations Convention on the Law of the Sea.

Rule 87 (89)

Composition

In the composition of subsidiary organs due account shall be taken of the principle of equitable geographical distribution and of special interests and the need for members qualified and competent in the relevant technical questions dealt with by such organs.

Rule 88* (90)

Statements by non-members of a subsidiary organ

Any member of the Authority that is not a member of a subsidiary organ shall have the right to explain its views to that organ on any proposal that the member of the Authority has made when that proposal is under consideration, provided that no co-sponsor of the proposal is a member of that organ.

Rule 89* (91)

Officers, conduct of business and voting

The rules relating to officers, conduct of business and voting of the Assembly apply, mutatis mutandis, to the proceedings of subsidiary organs except that:

(a) The Chairman of a subsidiary organ may exercise the right to vote;

(b) The presence of representatives of a majority of the members of any subsidiary organ shall be required for any decision to be taken.

XV. MEMBERSHIP

Rule 90* (92*)

Membership

All States Parties to the United Nations Convention on the Law of the Sea are ipso facto members of the Assembly.

Rule 91* (93*)

Suspension of the exercise of voting rights

A member of the Authority which is in arrears in the payment of its financial contributions to the Authority shall have no vote if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceeding two full years. The Assembly may, nevertheless, permit such a member of the Authority to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Rule 92* (94*)

Suspension of the exercise of rights and privileges of membership

1. A member of the Authority which has grossly and persistently violated the provisions of Part XI of the United Nations Convention on the Law of the Sea may be suspended from the exercise of the rights and privileges of membership by the Assembly upon the recommendation of the Council.

2. No action may be taken under paragraph 1 until the Seabed Disputes Chamber of the International Tribunal for the Law of the Sea has found that a member of the Authority has grossly and persistently violated the provisions of Part XI of the Convention.

XVI. OBSERVERS

Rule 93 (95)

1.* The following may participate as observers in the Assembly:

(a) States and entities referred to in article 305 of the United Nations Convention on the Law of the Sea which have not ratified, nor acceded to the Convention nor, as the case may be, deposited instruments of formal confirmation of it;

(b) National liberation movements which in their respective regions are recognized by the Organization of African Unity or by the League of Arab States;

(c) Observers to the Third United Nations Conference on the Law of the Sea invited by the Secretary-General of the United Nations under paragraph 3 of General Assembly resolution 3334 (XXIX);

(d) The United Nations, its specialized agencies, the International Atomic Energy Agency and other intergovernmental organizations invited by the Assembly;

(e) Non-governmental organizations recognized by the Economic and Social Council of the United Nations.

2. Representatives of observers referred to in paragraph 1 (a), (b) and (c) of this rule may participate subject to the provisions of these rules in the deliberations of the Assembly and its subsidiary organs but shall not be entitled to participate in the taking of decisions.

3. Observers referred to in paragraph 1 (d) of this rule may designate representatives to participate in the deliberations of the Assembly upon the invitation of the President on questions within the scope of their competence.

4. Written statements submitted by observers referred to in paragraph 1 (d) of this rule shall be distributed by the Secretariat to the members of the Assembly.

5. Observers referred to in paragraph 1 (e) of this rule may designate representatives to sit at public meetings of the Assembly and upon the invitation of the President and subject to the approval by the Assembly may make oral statements on questions within the scope of their activities.

6. Written statements submitted by observers referred to in paragraph 1 (e) of this rule within the scope of their competence which are relevant to the work of the Assembly shall be distributed by the Secretariat in the quantities and in the languages in which the statements are made available.

XVII. ELECTIONS TO ORGANS

Members of the Council

Rule 94 (96)

Nominations

Each group of States Parties eligible for representation in the Council in accordance with article 161, paragraph 1, of the United Nations Convention on the Law of the Sea shall nominate its representatives.

Rule 95 (97)

Order of elections

1. The Assembly shall elect at its regular sessions members of the Council [from candidates] nominated by groups of States Parties referred to in rule 94 in the following order:

(a) Four members from among those States Parties which, during the last five years for which statistics are available, have either consumed more than 2 per cent of total world consumption or have had net imports of more than 2 per cent of total world imports of the commodities produced from the categories of minerals to be derived from the Area, and in any case one State from the Eastern European (Socialist) region, as well as the largest consumer;

(b) Four members from among the eight States Parties which have the largest investments in preparation for and in the conduct of activities in the Area either directly or through their nationals, including at least one State from the Eastern European (Socialist) region;

(c) Four members from among States Parties which on the basis of production in areas under their jurisdiction are major net exporters of the categories of minerals to be derived from the Area, including at least two developing States whose exports of such minerals have a substantial bearing upon their economies;

(d) Six members from among developing States Parties, representing special interests. The special interests to be represented shall include those of States with large populations, States which are land-locked or geographically disadvantaged, States which are major importers of the categories of minerals to be derived from the Area, States which are potential producers of such minerals, and least developed States;

(e) Eighteen members elected according to the principle of ensuring an equitable geographical distribution of seats in the Council as a whole, provided that each geographical region shall have at least one member elected under this subparagraph. For this purpose, the geographical regions shall be

Africa, Asia, Eastern European (Socialist), Latin America and Western European and Others.

2. In electing the members of the Council in accordance with paragraph 1, the Assembly shall ensure that:

(a) Land-locked and geographically disadvantaged States are represented to a degree which is reasonably proportionate to their representation in the Assembly;

(b) Coastal States, especially developing States, which do not qualify under paragraph 1 (a), (b), (c) or (d) are represented to a degree which is reasonably proportionate to their representation in the Assembly;

(c) Each group of States Parties to be represented on the Council is represented by those members, if any, which are nominated by the group.

3. The first such election shall be held at the first regular session of the Assembly.

Rule 96* (98*)

Terms of office

Each member of the Council shall be elected for four years. At the first election, however, the term of one half of the members of each group referred to in article 161, paragraph 1, of the United Nations Convention on the Law of the Sea shall be two years. The members of the Council whose terms are to expire at the end of two years shall be chosen by lot to be drawn by the Secretary-General of the United Nations immediately after the first election.

Rule 97* (99*)

Eligibility for re-election

Members of the Council shall be eligible for re-election, but due regard should be paid to the desirability of rotation of membership.

Rule 98* (100*)

By-elections

Should a member of the Authority cease to belong to the Council before its term of office expires, a by-election shall be held separately at the next session of the ASsembly to elect a member of the Authority for the unexpired term.

The Secretary-General of the Authority

Rule 99* (101*)

The Secretary-General shall be elected for four years by the Assembly from among the candidates proposed by the Council and may be re-elected.

Members of the Governing Board of the Enterprise

Rule 100 (102*)

Elections

1. The Assembly shall elect, upon the recommendation of the Council, the fifteen members of the Governing Board of the Enterprise.

2. In the election of the members of the Board, due regard shall be paid to the principle of equitable geographical distribution. In submitting nominations of candidates for election to the Board, members of the Authority shall bear in mind the need to nominate candidates of the highest standard of competence, with qualifications in relevant fields, so as to ensure the viability and success of the Enterprise.

Rule 101* (103*)

Terms of office

1. Members of the Board shall be elected for four years and may be re-elected; due regard shall be paid to the principle of rotation of membership.

2. Members of the Board shall continue in office until their successors are elected.

Rule 102* (104*)

By-elections

If the office of a member of the Board becomes vacant, the Assembly shall, in accordance with rule 100, elect a new member for the remainder of his predecessor's term.

The Director-General of the Enterprise

Rule 103* (105*)

The Assembly shall, upon the recommendation of the Council and the nomination of the Governing Board, elect the Director-General of the Enterprise, who shall not be a member of the Board. The Director-General shall hold office for a fixed term, not exceeding five years, and may be re-elected for further terms.

XVIII. ADMINISTRATIVE AND BUDGETARY QUESTIONS

Rule 104 (106)

Proposed annual budget

The Assembly shall consider and approve the proposed annual budget of the Authority submitted by the Council.

Rule 105* (107 and 108)

Financial implications of resolutions

1. No resolution involving expenditure shall be recommended for approval by the Assembly unless it is accompanied by an estimate of expenditures prepared by the Secretary-General.

2. The Secretary-General shall keep all organs informed of the detailed estimated cost of all resolutions which have been recommended by those organs for approval by the Assembly.

Rule 106 (109)

Contributions

1. The Assembly shall assess the contributions of members of the Authority to the administrative budget of the Authority in accordance with an agreed scale of assessment based upon the scale used for the regular budget of the United Nations until the Authority shall have sufficient income from other sources to meet its administrative expenses.

2. The Assembly shall consider the extent of the shortfall referred to in annex IV, article 11, paragraph 3 (c), of the United Nations Convention on the Law of the Sea and adopt measures for dealing with this shortfall.

3. Decisions on such matters shall be taken by consensus.

XIX. AMENDMENTS

Rule 107 (110)

Method of amendment

These rules of procedure may be amended by a decision of the Assembly, taken by [ ] of the members of the Authority present and voting.

LOS/PCN/WP.26/Rev.3
28 July 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
New York, 10-21 August 1992

FINAL DRAFT RULES OF PROCEDURE OF THE COUNCIL OF THE INTERNATIONAL SEABED AUTHORITY

Working paper by the Secretariat

I. SESSIONS

Regular sessions

Rule 1* (1) 1/ 2/

Frequency of sessions

The Council shall meet in three regular sessions annually.

Rule 2* (2)

Date of commencement and duration

Before the end of each session the Council shall decide on the date of commencement and the approximate duration of the next session.

1/ Rules with an asterisk have been provisionally adopted.

2/ The number in parentheses indicates the number of the rule in document LOS/PCN/WP.26/Rev.1.

Rule 3* (4)

Notification of members

The Secretary-General shall notify the members of the Council as early as possible but at least thirty days in advance of the opening of a regular session. On the same date he shall notify other members of the Authority.

Rule 4* (3)

Alteration of the date of a regular session

1. Any member of the Council or the Secretary-General may request an alteration of the date of a regular session.

2. A request coming from a member of the Council shall be submitted to the Secretary-General at least forty-five days before the date originally scheduled and thirty days before the proposed new date. The Secretary-General shall immediately communicate the request to the members of the Council, together with all appropriate observations, including, if any, a statement on financial implications.

3. A request coming from the Secretary-General shall be subject to the same conditions.

4. If, within fifteen days of the request, a majority of the members of the Council concurs, the Secretary-General shall convene the session of the Council on the date indicated in the request.

Rule 5* (5)

Convening of special sessions

When the urgent business of the Authority so requires, special sessions of the Council shall be held at the request of:

(a) The Assembly ...; 3/

(b) Three fourths of the members of the Council;

3/ The question of the majority for the decision by the Assembly should be considered when the plenary resumes the examination of the draft rules of procedure of the Assembly.

(c) The President of the Council, with the concurrence of the Vice-Presidents of the Council and, as appropriate, in consultation with members of the Council;

(d) The Secretary-General.

Rule 6* (6)

Notification of members

The Secretary-General shall notify the members of the Council as early as possible, but no later than twenty-one days in advance of a special session. On the same date he shall notify other members of the Authority.

Regular and special sessions

Rule 7* (7)

Notification of observers

In accordance with the timetable envisaged in rules 3 and 6, copies of the notice convening each session of the Council shall be addressed to observers referred to in rule 93 of the rules of procedure of the Assembly.

Rule 8* (8*)

Temporary adjournment of session

The Council may decide to adjourn any session temporarily and resume it at a later date.

Rule 9* (9*)

Place of meeting

The Council shall meet at the seat of the Authority. 4/

4/ Article 161 (5).

II. AGENDA

Regular sessions

Rule 10* (10)

Drawing up of the provisional agenda

The provisional agenda of a regular session shall include:

(a) Items proposed by the Assembly;

(b) Reports of the Enterprise, reports and proposals of the Economic Planning Commission, the recommendations of the Legal and Technical Commission and reports of the Finance Committee;

(c) Items proposed by the Council;

(d) Items proposed by any member of the Council;

(e) Items proposed by the Secretary-General.

Rule 11* (11)

Communication of the provisional agenda

The provisional agenda for a regular session shall be drawn up by the Secretary-General and communicated to the members of the Council and to the members and observers of the Authority as early as possible but at least thirty days before the opening of the session. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members and observers of the Authority at least ten days before the session.

Special sessions

Rule 12* (12)

Drawing up of the provisional agenda

The provisional agenda for a special session shall consist only of those items proposed for consideration in the request for the holding of the session.

Rule 13* (13)

Communication of the provisional agenda

The provisional agenda of a special session shall be communicated to the members of the Council as early as possible, but at least twenty-one days before the opening of the session. It shall be communicated to other members and observers of the Authority on the same date.

Regular and special sessions

Rule 14* (14*)

Adoption of the agenda

At the beginning of each session, the Council shall adopt its agenda for the session on the basis of the provisional agenda. The Council may, however, in urgent circumstances, make additions to the agenda at any time during a session.

Rule 15* (15*)

Allocation of items

The Council may allocate items for its consideration or for consideration by any of its organs or any of its subsidiary organs and may refer items without preliminary debate to:

(a) One or more of its organs or subsidiary organs for examination and report at a subsequent session of the Council;

(b) The Secretary-General for study and report at a subsequent session of the Council; or

(c) The proposer of the item, for further information or documentation.

III. REPRESENTATION AND CREDENTIALS

Rule 16* (16*)

Composition of delegations

Each member of the Council shall be represented at the meetings of the Council by an accredited representative, who may be accompanied by such alternate representatives and advisers as may be required by the delegation.

Rule 17* (17*)

Submission of credentials

The credentials of representatives and the names of alternate representatives and advisers shall be submitted to the Secretary-General not later than twenty-four hours after they take their seats on the Council. The credentials shall be issued either by the Head of State or Government, by the Minister for Foreign Affairs or by another competent authority of the sending member. The Head of State or Government, Minister for Foreign Affairs or any person responsible for foreign affairs of each member of the Council shall be entitled to sit on the Council without submitting credentials.

Rule 18* (18) 5/

Submission of credentials by the members of the Authority not represented on the Council

Any member of the Authority not represented on the Council, attending a meeting of the Council in accordance with rule 72, shall submit credentials for the representative appointed by it for this purpose. The credentials of such a representative shall be communicated to the Secretary-General not less than twenty-four hours before the first meeting which he is invited to attend.

Rule 19* (19*)

Examination of credentials

The credentials of representatives on the Council and of any representative appointed in accordance with rule 18 shall be examined by the Secretary-General, who shall submit a report to the Council for approval.

Rule 20* (20*)

Provisional admission to the session

Pending the approval of the credentials of a representative on the Council in accordance with rule 19, such representative shall be seated provisionally with the same rights as other representatives.

5/ Although this rule has been provisionally adopted, it should be reviewed when the question of observers is resolved in the rules of procedure of the Assembly.

Rule 21* (21*)

Objection to representation

Any representative on the Council, to whose credentials objection has been made within the Council, shall continue to sit with the same rights as other representatives until the Council has decided the matter.

IV. OFFICERS

Rule 22* (22)

Elections

1. Each year at its first session convened after the end of each regular annual session of the Assembly, the Council shall elect a President and four Vice-Presidents from among its members, so that every regional group is represented by one officer.

2. In the election of the President the principle of rotation between regional groups shall be observed, and every effort shall be made to elect the President without a vote.

3. Vice-Presidents shall be eligible for re-election.

Rule 23* (23)

Term of office

The President and the Vice-Presidents shall, subject to rule 27, hold office until their successors are elected.

Rule 24* (24)

Temporary President

[Deleted]

Rule 25* (25)

Acting President

1. If the President finds it necessary to be absent during a meeting or any part thereof, he shall designate one of the Vice-Presidents to take his place.

2. If the President ceases to hold office pursuant to rule 27, one of the Vice-Presidents shall act in his place until the election of a new President.

Rule 26* (26*)

Powers of the Acting President

A Vice-President acting as President shall have the same powers and duties as the President.

Rule 27* (27)

Replacement of the President or Vice-President

If the President or Vice-President ceases to be able to carry out his functions or ceases to be a representative of a member of the Council, or if a member of which he is a representative ceases to be a member of the Council, he shall cease to hold such office and a new President or Vice-President shall be elected for the unexpired term.

Rule 28* (28*)

Voting of the President and Acting President

The President, or a Vice-President acting as President, shall not vote, but may designate another member of his delegation to vote in his place.

Rule 29* (29*)

Functions of the President

1. The President shall preside over the meetings of the Council and shall represent it in its capacity as the executive organ of the Authority.

2. The President, in the exercise of his functions, remains under the authority of the Council.

V. SECRETARIAT

Rule 30* (30*)

Duties of the Secretary-General

1. The Secretary-General, as the chief administrative officer of the Authority, shall act in that capacity in all meetings of the Council and of its organs and subsidiary organs. He may designate an officer of the Secretariat to act as his representative. He shall discharge such other responsibilities as are assigned to him under part XI of the United Nations Convention on the Law of the Sea.

2. The Secretary-General shall provide and direct, with due regard to the principles of economy and efficiency, the staff required by the Council, its organs and its subsidiary organs.

3. The Secretary-General shall keep the members of the Council informed of any questions which may be of interest to the Council.

Rule 31 (31)

Submission of the annual budget

The Secretary-General shall draft the proposed annual budget of the Authority and submit it to the Council for its consideration. The Council shall consider the proposed annual budget and submit it to the Assembly, together with any recommendations thereon. 6/

Rule 32* (32*)

Cooperation with international and non-governmental organizations

The Secretary-General shall, on matters within the competence of the Authority, make suitable arrangements, with the approval of the Council, for consultation and cooperation with international and non-governmental organizations recognized by the Economic and Social Council of the United Nations. 7/

Rule 33* (33)

Duties of the Secretariat

1. The Secretariat shall receive, translate, reproduce and distribute documents of the Council and its organs to the members and observers of the Authority; interpret speeches made at the meetings; prepare and circulate the records of the session; have the custody and proper preservation of the documents in the archives of the Authority; and, generally, perform all other work which the Council may require.

2. The Secretary-General may distribute to States Parties written reports submitted by the non-governmental organizations referred to in article 169, paragraph 1, of the United Nations Convention on the Law of the Sea. Such reports submitted by non-governmental organizations within the scope of their

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6/ Article 172.

7/ Article 169 (1).

competence which are relevant to the work of the Council shall be distributed by the Secretariat in the quantity and in the languages in which the reports are available. 8/

Rule 34 (34)

Estimate of expenditures

1. Before any proposal which involves expenditure from the Authority's funds is approved by the Council, the Secretary-General shall circulate to all members of the Council, as early as possible, a report on the estimated costs involved as well as on administrative and budgetary implications with reference to existing financial authorizations and budgetary appropriations.

2. The Council shall take into account the estimates referred to in paragraph 1 before adopting any proposal involving expenditure from the Authority's funds. If the proposal is adopted, the Council shall indicate, whenever appropriate, the priority or degree of urgency which it attaches to the proposal.

3. [Whenever the Council wishes to recommend, in cases of exceptional urgency, that a proposal involving expenditures for which no financial provision exists be implemented before the next regular session of the Assembly, it shall include a specific indication to that effect to the Secretary-General in the resolution approving the proposal.]

VI. CONDUCT OF BUSINESS

Rule 35* (35*)

Quorum

A majority of the members of the Council shall constitute a quorum.

Rule 36* (36*)

Powers of the President

In addition to exercising the powers conferred upon him elsewhere in these rules or by the United Nations Convention on the Law of the Sea, the President shall declare the opening and closing of each meeting of the Council, direct the discussions, ensure observance of these rules, accord the right to speak, put questions for decisions and announce decisions. He shall rule on points of order and, subject to these rules, shall have complete

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8/ Article 169 (3).

control of the proceedings of the Council and over the maintenance of order at its meetings. The President may, in the course of discussion of an item, propose to the Council the limitation of time to be allowed to speakers, the limitation of the number of times each representative may speak on any question, the closure of the list of speakers or the closure of the debate, and the suspension or the adjournment of the meeting or of the debate on the question under discussion.

Rule 37* (37*)

Speeches

No representative may address the Council without having previously obtained the permission of the President. The President shall call upon speakers in the order in which they signify their desire to speak. The President may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 38* (38*)

Precedence

The Chairman of an organ of the Council, or of a subsidiary organ of the Council, may be accorded precedence in speaking for the purpose of explaining the conclusion arrived at by that organ.

Rule 39* (39*)

Statements by the Secretariat

The Secretary-General, or a member of the Secretariat designated by him as his representative, may at any time make either oral or written statements to the Council concerning any questions under consideration by it.

Rule 40* (40*)

Points of order

During the discussion of any matter, a representative may rise to a point of order, and the point of order shall be immediately decided by the President in accordance with the rules of procedure. A representative may appeal against the ruling of the President. The appeal shall be immediately put to the vote, and the President's ruling shall stand unless overruled by a majority of the members present and voting. A representative rising to a point of order may not speak on the substance of the matter under discussion.

Rule 41* (41*)

Time-limit on speeches

The Council may limit the time to be allowed to each speaker and the number of times each representative may speak on any question. Before a decision is taken, two representatives may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a representative exceeds his allotted time the President shall call him to order without delay.

Rule 42* (42*)

Closing of list of speakers

During the course of a debate, the President may announce the list of speakers and, with the consent of the Council, declare the list closed. The President may, however, accord the right of reply to any representative if a speech delivered after he has declared the list closed makes this desirable.

Rule 43* (43*)

Adjournment of debate

During the discussion of any matter, a representative may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two representatives may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The President may limit the time to be allowed to speakers under this rule.

Rule 44* (44*)

Closure of the debate

A representative may at any time move the closure of the debate on the question under discussion, whether or not any other representative has signified his wish to speak. Permission to speak on the motion shall be accorded only to two representatives of members opposing the closure, after which the motion shall be immediately put to the vote. If the Council is in favour of the closure, the President shall declare the closure of the debate. The President may limit the time to be allowed to speakers under this rule.

Rule 45* (45*)

Suspension or adjournment of the meeting

During the discussion of any matter, a representative may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The President may limit the time to be allowed to the speaker moving the suspension or adjournment of the meeting.

Rule 46* (46*)

Order of procedural motions

Subject to rule 40, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the item under discussion;

(d) To close the debate on the item under discussion.

Rule 47* (47*)

Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretary-General, who shall circulate copies to the representatives. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Council unless copies of it have been circulated to all representatives not later than the day preceding the meeting. The President may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

Rule 48* (48*)

Decision on competence

Subject to rule 46, any motion calling for a decision on the competence of the Council to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question.

Rule 49* (49*)

Withdrawal of proposals and motions

A proposal or a motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that the motion has not been amended. A proposal or a motion thus withdrawn may be reintroduced by another member.

Rule 50* (50*)

Reconsideration of proposals

When a proposal has been adopted or rejected, it may not be reconsidered at the same time unless the Council, by a two-thirds majority of the members present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

VII. DECISION-MAKING 9/

Rule 51* (51*)

Voting rights

Each member of the Council shall have one vote. 10/

Rule 52* (52*)

Decisions on questions of procedure

Decisions on questions of procedure shall be taken by a majority of the members of the Council present and voting. 11/

9/ The relevant provisions of the United Nations Convention on the Law of the Sea are embodied in the annex.

10/ Article 161, para. 7.

11/ Article 161, para. 8 (a).

Rule 53 (53)

Decisions requiring a two-thirds majority

Decisions on questions of substance arising under the following provisions of the United Nations Convention on the Law of the Sea shall be taken by a two-thirds majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 2, subparagraphs (f), (g), (h), (i), (n), (p) and (v), and article 191. 12/

Rule 54 (54)

Decisions requiring a three-fourth majority

Decisions on questions of substance arising under the following provisions of the United Nations Convention on the Law of the Sea shall be taken by a three-fourth majority of the members present and voting, provided that such majority includes a majority of the members of the Council: article 162, paragraph 1; article 162, paragraph 2, subparagraphs (a), (b), (c), (d), (e), (l), (q), (r), (s), (t) and (u), in cases of non-compliance by a contractor or sponsor; (w), provided that orders issued thereunder may be binding for not more than thirty days unless confirmed by a decision taken in accordance with subparagraph (d); article 162, paragraph 2, subparagraphs (x), (y) and (z); article 163, paragraph 2; article 174, paragraph 3; and annex IV, article 11. 13/

Rule 55* (55*)

Use of terms

1. For the purposes of these rules, the phrase "members present and voting" means members of the Council present and casting an affirmative or negative vote. Members of the Council who abstain from voting shall be considered as not voting.

2. Subject to the provisions of rules 16 and 21, the term "members participating" in relation to any particular session of the Council means any member of the Council whose representatives have registered with the Secretariat as participating in that session and which has not subsequently notified the Secretariat of its withdrawal from that session or part of it. The Secretariat shall keep a register for this purpose.

12/ Article 161, para. 8 (b).

13/ Article 161, para. 8 (c).

Rule 56* (56*)

Decisions requiring a consensus

Decisions on questions of substance arising under the following provisions of the United Nations Convention on the Law of the Sea shall be taken by consensus: article 162, paragraph 2 (m) and (o); adoption of amendments to part XI. 14/

Rule 57* (57*)

Use of term "consensus"

For the purposes of these rules, "consensus" means the absence of any formal objection. 15/

Rule 58 (58) 16/

Procedure for reaching a consensus

Within fourteen days of the submission to the Council of a proposal requiring a decision by consensus, the President of the Council shall determine whether there would be a formal objection to the adoption of the proposal. If the President determines that there would be such an objection, the President shall establish and convene, within three days following such determination, a conciliation committee consisting of not more than nine members of the Council, with the President as chairman, for the purpose of reconciling the differences and producing a proposal which can be adopted by consensus. The committee shall work expeditiously and report to the Council within fourteen days following its establishment. If the committee is unable to recommend a proposal which can be adopted by consensus, it shall set out in its report the grounds on which the proposal is being opposed.

14/ Article 161, para. 8 (d).

15/ Article 161, para. 8 (e).

16/ Ibid.

Rule 59* (59*) 17/

Decisions on questions not listed

1. Decisions on questions not listed in rules 52, 53, 54 or 56 which the Council is authorized to take by the rules, regulations and procedures of the Authority or otherwise shall be taken pursuant to the required majority specified in the rules, regulations and procedures or, if not specified therein, then pursuant to the required majority determined by the Council, if possible in advance, by consensus.

2. When the issue arises whether a question is within rules 52, 53, 54 or 56, the question shall be treated as being within the rule requiring the higher or highest majority or consensus as the case may be, unless otherwise decided by the Council by the said majority or by consensus.

Rule 60* (60*)

Method of voting

1. The Council shall, in the absence of mechanical means for voting, vote by show of hands, but a representative of any member of the Council may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the members of the Council participating in that session, beginning with the member of the Council whose name is drawn by lot by the President. The name of each member of the Council shall be called in any roll-call, and one of its representatives shall reply "yes" or "no" or "abstention". The result of the voting shall be inserted in the record in the English alphabetical order of the names of the members of the Council.

2. When the Council votes by mechanical means, a non-recorded vote shall replace a vote by show of hands and a recorded vote shall replace a roll-call vote. A representative of any member of the Council may request a recorded vote. In the case of a recorded vote, the Council shall, unless a representative of any member of the Council requests otherwise, dispense with the procedure of calling out the names of the members of the Council; nevertheless, the result of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

Rule 61* (61*)

Conduct during voting

After the President has announced the beginning of voting, no representative of any member of the Council shall interrupt the voting, except

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17/ Article 161, para. 8 (f) and (g).

that representatives of members of the Council may interrupt on a point of order in connection with the actual conduct of the voting.

Rule 62* (62*)

Explanation of vote

Representatives of members of the Council may make statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The President may limit the time to be allowed for such statements. The representative of any member of the Council sponsoring a proposal or motion shall not speak in explanation of vote thereon, unless it has been amended.

Rule 63* (63*)

Division of proposals and amendments

A representative of a member of the Council may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and to two speakers against. If the motion for division is carried, those parts of the proposal or of the amendment which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendment have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 64* (64*)

Order of voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Council shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

Rule 65* (65*)

Order of voting on proposals

If two or more proposals relate to the same question, the Council shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Council may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 66* (66*)

Elections

All elections shall be held by secret ballot unless otherwise decided by the Council.

Rule 67* (67*)

Restricted balloting for one elective place

1. If, when one person or a member of the Council is to be elected, no candidate obtains in the first ballot the votes of a majority of the members of the Council present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the President shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among more than two candidates obtaining the largest number of votes, a second ballot shall be held. If on that ballot a tie remains among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

3. If a majority other than a simple majority is required, the balloting shall be continued until one candidate secures the required majority of the votes cast, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or member of the Council. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the two candidates who obtained the greatest number of votes in the third of the unrestricted ballots, and the following three ballots thereafter shall be unrestricted, and so on until a person or member of the Council is elected.

Rule 68* (68*)

Restricted balloting for two or more elective places

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the majority required shall be elected. If the number of candidates obtaining such majority is less than the number of persons or members to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible person or member. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Rule 69* (69*)

Equally divided votes on matters other than elections

If a vote is equally divided on matters other than elections, a second vote shall be taken at a subsequent meeting which shall be held within forty-eight hours of the first vote, and it shall be expressly mentioned in the agenda that a second vote will be taken on the matter in question. If this vote also results in equality, the proposal shall be regarded as rejected.

VIII. SPECIAL PROCEDURES

Rule 70 (70)

Approval of plans of work submitted by applicants other than the Enterprise

The Council shall approve plans of work in accordance with the procedures set forth in article 162, paragraph 2 (j), of the United Nations Convention on the Law of the Sea.

Rule 71 (71)

Approval of plans of work submitted by the Enterprise

The Council shall approve plans of work submitted by the Enterprise in accordance with the procedures referred to in article 162, paragraph 2 (k), of the United Nations Convention on the Law of the Sea.

IX. PARTICIPATION BY NON-MEMBERS OF THE COUNCIL

Rule 72* (72*)

Participation by members of the Authority

Any member of the Authority not represented on the Council may send a representative to attend a meeting of the Council when a request is made by such member of the Authority, or a matter particularly affecting it is under consideration. Such a representative shall be entitled to participate in the deliberations but not to vote. 18/

Rule 73 (73)

Participation by observers

[Observers referred to in rule 95 of the rules of procedure of the Assembly may designate representatives to participate, without the right to vote, in the deliberations of the Council, upon the invitation of the President, on questions affecting them or within the scope of their activities.]

X. ELECTIONS TO THE ECONOMIC PLANNING COMMISSION AND THE LEGAL AND TECHNICAL COMMISSION

Rule 74* (74*)

Composition

1. Each Commission shall be composed of fifteen members, elected by the Council from among the candidates nominated by the States Parties. 19/

2. However, if necessary, the Council may decide to increase the size of either Commission having due regard to economy and efficiency. 20/

3. Decisions in accordance with paragraphs 1 and 2 shall be taken by the Council by a three-fourth majority of the members present and voting, in accordance with rule 54, provided that such majority includes a majority of the members of the Council.

18/ Article 161, para. 9.

19/ Article 163, para. 2.

20/ Article 163, para. 2.

Rule 75 (75)

Equitable geographical distribution and the representation of special interests

In the election of members of the Commissions, due account shall be taken of the need for equitable geographical distribution and the representation of special interests. 21/

Rule 76* (76*)

Nominations

No State Party may nominate more than one candidate for the same Commission. No person shall be elected to serve on more than one Commission. 22/

Rule 77* (77*)

Term of office

1. Members of the Commissions shall hold office for a term of five years. They shall be eligible for re-election for a further term. 23/

2. A member of the Commission shall begin his term of office on the date of election.

3. In the event of the death, incapacity or resignation of a member of a Commission prior to the expiration of his term of office, the Council shall elect for the remainder of the term, a member from the same geographical region or area of interest. 24/

21/ Article 163, para. 4.

22/ Article 163, para. 5.

23/ Article 163, para. 6.

24/ An amendment was introduced to this rule in document LOS/PCN/WP.33, suggesting the addition of the words "in accordance with rule 75" at the end of the second paragraph. It was noted that a decision on the amendment would depend on the final text of rule 75.

Rule 78* (78*)

General qualifications for membership of a Commission

Members of a Commission shall have appropriate qualifications in the area of competence of that Commission. States Parties shall nominate candidates of the highest standards of competence and integrity with qualifications in relevant fields so as to ensure the effective exercise of the functions of the Commissions. 25/

Rule 79* (79*)

Qualifications for membership of the Economic Planning Commission

Members of the Economic Planning Commission shall have appropriate qualifications, such as those relevant to mining, management of mineral resources activities, international trade or international economics. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. The Commission shall include at least two members from developing States whose exports of the categories of minerals to be derived from the Area have a substantial bearing upon their economies. 26/

Rule 80* (80*)

Qualifications for membership of the Legal and Technical Commission

Members of the Legal and Technical Commission shall have appropriate qualifications, such as those relevant to exploration for and exploitation and processing of mineral resources, oceanology, protection of the marine environment, or economic or legal matters relating to ocean mining and related fields of expertise. The Council shall endeavour to ensure that the membership of the Commission reflects all appropriate qualifications. 27/

25/ Article 163, para. 3.

26/ Article 164, para. 1.

27/ Article 165, para. 1.

XI. FINANCE COMMITTEE

Rule 81 (81)

Finance Committee

1. The Council shall appoint a finance committee consisting of fifteen members reflecting its own composition.

2. The Finance Committee shall:

(a) Elaborate the draft financial rules, regulations and procedures pursuant to article 162, paragraph 2 (y), of the United Nations Convention on the Law of the Sea;

(b) Advise the Council on the proposed annual budget prepared by the Secretary-General;

(c) Advise the Council on the sharing and distribution of financial benefits referred to in article 162, paragraph 2 (o) (i);

(d) Advise the Council on the exercise of the borrowing power of the Authority;

(e) Advise the Council on all other financial aspects of its work.

XII. SUBSIDIARY ORGANS OF THE COUNCIL

Rule 82* (82)

Establishment

The Council shall establish, as appropriate, and with due regard to economy and efficiency, subsidiary organs as it finds necessary for the exercise of its functions in accordance with part XI of the United Nations Convention on the Law of the Sea.

Rule 83 (83)

Composition

In the composition of subsidiary organs, emphasis shall be placed on the need for members qualified and competent in relevant technical matters dealt with by those organs, provided that due account shall be taken of the principle of equitable geographical distribution and of special interests.

Rule 84* (84)

Rules of procedure

These rules of procedure of the Council apply, mutatis mutandis, to the proceedings of subsidiary organs unless the Council decides otherwise.

XIII. LANGUAGES

Rule 85* (85)

Languages

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Council.

Rule 86* (86)

Interpretation

1. Speeches made in a language of the Council shall be interpreted into the other such languages.

2. Any representative may make a speech in a language other than the language of the Council. In that case, he shall himself provide for interpretation into one of the languages of the Council. Interpretation into the other languages of the Council by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Rule 87* (87)

Languages of resolutions and documents

All resolutions and other documents shall be published in the languages of the Council.

XIV. RECORDS

Rule 88* (88)

Records and sound recordings of meetings

1. Summary records of the meetings of the Council shall be kept in the languages of the Council. As a general rule, they shall be circulated as soon as possible, simultaneously in all the languages of the Council, to all representatives, who shall inform the Secretariat within five working days

after the circulation of the summary record of any changes they wish to have made.

2. The Secretariat shall make sound recordings of the meetings of the Council and of its subsidiary organs when they so decide.

Rule 89* (89*)

Decisions

Decisions adopted by the Council shall be communicated by the Secretary-General to the members of the Authority within fifteen days after the close of the session.

XV. PUBLIC AND PRIVATE MEETINGS OF THE COUNCIL AND ITS SUBSIDIARY ORGANS

Rule 90* (90)

Public and private meetings

1. The meetings of the Council shall be held in public unless otherwise decided.

2. As a general rule, meetings of subsidiary organs shall be held in private.

3. All decisions of the Council taken at a private meeting shall be announced at an early public meeting of the Council. At the close of each private meeting of a subsidiary organ, the Chairman may issue a communiqué through the Secretary-General.

Rule 91

Private meetings

[merged with rule 90, as paragraphs 2 and 3]

XVI. AMENDMENTS

Rule 92 (92)

Method of amendment

These rules of procedure may be amended by a decision of the Council, taken by [...] of the members present and voting.

LOS/PCN/WP.31/Rev.3
28 July 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
New York, 10-21 August 1992

FINAL DRAFT RULES OF PROCEDURE OF THE LEGAL AND TECHNICAL COMMISSION

Working paper by the Secretariat

I. SESSIONS

Rule 1* (1) 1/ 2/

Frequency of sessions

The Legal and Technical Commission (hereinafter referred to as "the Commission") shall meet as often as required for the efficient exercise of its functions, taking into account, among others, the financial considerations that may influence the frequency of its meetings. 3/

1/ Rules with asterisks (*) have been provisionally adopted.

2/ The number in parentheses indicates the place of the rule in document LOS/PCN/WP.31/Rev.1.

3/ Based on article 163 (12).

Rule 2* (2)

Place of session

1. The Commission shall normally meet at the seat of the Authority. 4/

2. Whenever exceptional circumstances warrant meetings of the Commission elsewhere or the business of the Commission so requires, a decision for holding such meetings and also concerning the venue and duration of such meetings shall be taken by the Council upon the recommendation of the Commission, in consultation with the Secretary-General, taking into account possible financial implications of such meetings.

Rule 3* (3)

Convening of session

Taking into account the provisions of rule 1, the Commission shall be convened at the request of:

(a) The Council;

(b) The majority of the members of the Commission;

(c) The Chairman of the Commission; or

(d) The Secretary-General.

Rule 4* (4)

Notification of the members

The Secretary-General shall notify the members of the Commission and the members and observers of the Authority as early as possible of the date and duration of each session.

Rule 5* (5*)

Temporary adjournment of session

The Commission may decide to adjourn any session temporarily and resume it at a later date.

4/ Article 163 (12).

II. AGENDA

Rule 6* (6)

Communication of the provisional agenda

The provisional agenda for each session shall be drawn up by the Secretary-General and communicated to the members of the Commission and the members and observers of the Authority as early as possible but at least twenty-one days before the opening of the session. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members of the Commission and to the members and observers of the Authority sufficiently in advance of the session.

Rule 7* (7)

Drawing up of the provisional agenda

The provisional agenda of each session shall include:

(a) All items proposed by the Council;

(b) All items proposed by the Commission;

(c) All items proposed by the Chairman of the Commission;

(d) All items proposed by any member of the Commission;

(e) All items proposed by the Secretary-General.

Rule 8* (8)

Adoption of the agenda

At the beginning of each session, the Commission shall, on the basis of the provisional agenda, adopt its agenda for the session, which shall, in any case, include all items proposed by the Council. The Commission may, if necessary, make additions to the agenda at any time during a session, but no item included in the agenda shall be deleted.

III. ELECTIONS AND FUNCTIONS

Rule 9* (9*)

Elections

The members of the Commission shall be elected by the Council in accordance with its rules of procedure. 5/

Rule 10* (11)

Incompatible activities and confidentiality

Members of the Commission shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Commission, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with annex III, article 14, of the United Nations Convention on the Law of the Sea, or any other confidential information coming to their knowledge by reason of their duties for the Authority. 6/

Rule 11* (11*)

Exercise of functions

The Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt. 7/

Rule 12* (12)

Rules and regulations of the Commission

The Commission shall formulate and submit to the Council for approval such rules and regulations as may be necessary for the efficient conduct of the Commission's functions. 8/

5/ Article 163 (2).

6/ Article 163 (8).

7/ Article 163 (9).

8/ Article 163 (10).

Rule 13* (13)

Consultations

In the exercise of its functions, the Commission may, where appropriate, consult another commission, any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject-matter of such consultation. 9/

IV. OFFICERS

Rule 14 (14)

Election of Chairman and the Bureau

1. Each year at the first session, the Commission shall elect a Chairman and four [Vice-Chairmen] from among its members. In electing the officers, due regard shall be paid to the principle of equitable geographical representation.

2. The Chairman of the previous year shall preside until the Commission has elected a Chairman for the next year.

Rule 15* (15*)

Rapporteur

The Commission may appoint, if necessary, any of its members as Rapporteur for any particular question.

Rule 16* (16)

Acting Chairman

1. If the Chairman is absent during a meeting or any part thereof, he shall designate one of the Vice-Chairmen to take his place.

2. If the Chairman ceases to hold office pursuant to rule 18, the remaining members of the Bureau shall designate one of the Vice-Chairmen to take his place until the election of a new Chairman.

9/ Article 163 (13).

Rule 17* (17*)

Powers of the Acting Chairman

A Vice-Chairman acting as Chairman shall have the same powers and duties as the Chairman.

Rule 18* (18*)

Replacement of the Chairman or a Vice-Chairman

If the Chairman or a Vice-Chairman ceases to be able to carry out his functions or ceases to be a member of the Commission, he shall cease to hold such office and a new Chairman or Vice-Chairman shall be elected for the unexpired term.

Rule 19* (19*)

Functions of the Chairman

The Chairman shall preside over the sessions of the Commission and under the authority of the Commission shall represent it in its capacity as an organ of the Council.

Rule 20* (20*)

Exercise of the Chairman's functions

The Chairman, in the exercise of his functions, remains under the authority of the Commission.

V. SECRETARIAT

Rule 21* (21)

Duties of the Secretary-General

1. The Secretary-General shall act in that capacity in all meetings of the Commission. He may designate a member of the Secretariat to act as his representative. He shall perform such other functions as are assigned to him by the Commission. 10/

10/ Article 166 (3).

2. The Secretary-General shall provide and direct the staff required by the Commission, taking into account to the greatest extent possible the requirements of economy and efficiency, and be responsible for all the arrangements that may be necessary for its meetings.

3. The Secretary-General shall keep the members of the Commission informed of any questions that may be brought before the Commission for consideration.

4. The Secretary-General shall provide to the Commission, at its request, reports on questions specified by the Commission.

Rule 22*

Estimate of expenditures

The Secretary-General shall prepare and provide to the members of the Commission, as early as possible, a report on the estimated costs involved, as well as on the administrative and budgetary implications of any recommendation or proposal before the Commission. In adopting any such recommendation or proposal the Commission shall take into account the report of the Secretary-General.

Rule 23* (22*)

Duties of the Secretariat

The Secretariat shall receive, translate, reproduce and distribute recommendations, reports and other documents of the Commission, interpret speeches made at the meetings, prepare and circulate the records of the session; have custody and proper preservation of the documents in the archives of the Commission; and, generally, perform all other work which the Commission may require.

VI. CONDUCT OF BUSINESS

Rule 24* (23*)

Quorum

A majority of the members of the Commission shall constitute a quorum.

Rule 25* (24*)

Powers of the Chairman

In addition to exercising the powers conferred upon him elsewhere in these rules, the Chairman shall declare the opening and closing of each meeting of the Commission, direct the discussions, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. He shall rule on points of order and, subject to these rules, shall have complete control of the proceedings of the Commission and over the maintenance of order at its meetings. The Chairman may, in the course of the discussion of an item, propose to the Commission the limitation of time to be allowed to speakers, the limitation of the number of times each member may speak on any question, the closure of the list of speakers or the closure of the debate. He may also propose the suspension or the adjournment of the meeting or of the debate on the question under discussion.

Rule 26* (25*)

Speeches

No member may address the Commission without having previously obtained the permission of the Chairman. The Chairman shall call upon speakers in the order in which they signify their desire to speak. The Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 27* (26*)

Statements by the Secretariat

The Secretary-General, or a member of the Secretariat designated by him as his representative, may at any time make either oral or written statements to the Commission concerning any questions under consideration by it.

Rule 28* (27*)

Points of order

During the discussion of any matter, a member may rise to a point of order, and the point of order shall be immediately decided by the Chairman in accordance with the rules of procedure. A member may appeal against the ruling of the Chairman. The appeal shall be immediately put to the vote, and the Chairman's ruling shall stand unless overruled by a majority of the members present and voting. A member rising to a point of order may not speak on the substance of the matter under discussion.

/...

Rule 29* (28*)

Time-limit on speeches

The Commission may limit the time to be allowed to each speaker and the number of times each member may speak on any question. Before a decision is taken, two members may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a member exceeds his allocated time, the Chairman shall call him to order without delay.

Rule 30* (29*)

Closing of list of speakers

During the course of a debate, the Chairman may announce the list of speakers and, with the consent of the Commission, declare the list closed. The Chairman may, however, accord the right of reply to any member if a speech delivered after he has declared the list closed makes this desirable.

Rule 31* (30*)

Adjournment of debate

During the discussion of any matter, a member may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two members may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The Chairman may limit the time to be allowed to speakers under this rule.

Rule 32* (31*)

Closure of debate

A member may at any time move the closure of the debate on the question under discussion, whether or not any other member has signified his wish to speak. Permission to speak on the motion shall be accorded only to two members opposing the closure, after which the motion shall be immediately put to the vote. If the Commission is in favour of the closure, the Chairman shall declare the closure of the debate. The Chairman may limit the time to be allowed to members under this rule.

Rule 33* (32*)

Suspension or adjournment of the meeting

During the discussion of any matter, a member may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The Chairman may limit the time to be allowed to the speaker moving the suspension or adjournment of the meeting.

Rule 34* (33*)

Order of procedural motions

Subject to rule 28, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the item under discussion;

(d) To close the debate on the item under discussion.

Rule 35* (34*)

Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretary-General, who shall circulate copies to the members of the Commission. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Commission unless copies of it have been circulated to all members not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

Rule 36* (35*)

Decision on competence

Subject to rule 34, any motion calling for a decision on the competence of the Commission to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question.

Rule 37* (36*)

Withdrawal of proposals and motions

A proposal or a motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that it has not been amended. A proposal or a motion thus withdrawn may be reintroduced by another member.

Rule 38 (37)

Reconsideration of proposals

When a proposal has been adopted or rejected, it may not be reconsidered at the same session unless the Commission, by a two-thirds majority of the members present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

VII. DECISION-MAKING

Rule 39* (38*)

Voting rights

Each member of the Commission shall have one vote. 11/

Rule 40* (39*)

Decisions on questions of procedure

1. Decisions on questions of procedure shall be taken by a majority of the members present and voting. 12/

2. If the question arises as to whether a matter is one of procedure or of substance, the Chairman shall rule on the question. Any appeal against this ruling shall be immediately put to the vote and the Chairman's ruling shall stand unless the appeal is approved by a majority of the members present and voting.

11/ Article 161 (7).

12/ Article 161 (8) (a).

Rule 41 (40)

Decisions on questions of substance

1. Except as otherwise provided in these rules, decisions on questions of substance shall be taken by a two-thirds majority of the members present and voting. 13/

2. However, before a matter of substance is put to the vote, the Commission shall make every effort to reach agreement on such matters by the way of consensus. 14/

3. For the purpose of this rule, "consensus" means the absence of any formal objection.

Rule 42* (41*)

Meaning of the phrase "members present and voting"

For the purposes of these rules, the phrase "members present and voting" means members present and casting an affirmative or negative vote. Members who abstain from voting shall be considered as not voting.

Rule 43* (42)

Recommendations to the Council

Recommendations to the Council shall, wherever necessary, be accompanied by a summary on the divergencies of opinion in the Commission. 15/

13/ In the Chairman's statement (LOS/PCN/L.27/Rev.1), it was observed that: "In view of the close interrelation of financial aspects in the different rules of procedure to be prepared for the organs of the Authority, a certain trend developed at this session to consider these matters in their entirety at an appropriate stage". Decision-making in the Legal and Technical Commission with respect to financial and budgetary matters can also be considered at that stage.

14/ Since the Commission will be a fairly small body holding frequent meetings, detailed rules on a mechanism for achieving consensus have not been provided. This provision is meant to reflect the spirit of consensus which will guide the Commission's deliberations.

15/ Article 163 (11).

Rule 44* (43*)

Method of voting

1. The Commission shall, in the absence of mechanical means for voting, vote by show of hands, but any member may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the members participating in that session, beginning with the member whose name is drawn by lot by the Chairman. The name of each member shall be called in any roll-call, and the member shall reply "yes" or "no" or "abstention". The result of the voting shall be inserted in the record in the English alphabetical order of the names of the members.

2. When the Commission votes by mechanical means, a non-recorded vote shall replace a vote by show of hands and a recorded vote shall replace a roll-call vote. Any member may request a recorded vote. In the case of a recorded vote, the Commission shall, unless a member requests otherwise, dispense with the procedure of calling out the names of the members; nevertheless, the result of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

Rule 45* (44*)

Conduct during voting

After the Chairman has announced the beginning of voting, no member shall interrupt the voting, except on a point of order in connection with the actual process of the voting.

Rule 46* (45*)

Explanation of vote

Members may make brief statements consisting solely of explanations of their votes before the voting has commenced or after the voting has been completed. The member sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

Rule 47* (46*)

Division of proposals and amendments

A member may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal

/...

or of the amendments which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendments have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 48* (47*)

Order of voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

Rule 49* (48*)

Order of voting on proposals

If two or more proposals relate to the same question, the Commission shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Commission may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 50* (49*)

Elections

All elections shall be held by secret ballot unless otherwise decided by the Commission.

Rule 51* (50*)

Restricted balloting for one elective place

1. When only one person is to be elected and no candidate obtains in the first ballot the votes of a majority of the members present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the Chairman shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among more than two candidates obtaining the largest number of votes, a second ballot shall be held. If on that ballot a tie remains among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 52* (51*)

Restricted balloting for two or more elective places

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the majority required shall be elected. If the number of candidates obtaining such majority is less than the number of persons or members to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible member. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Rule 53* (52*)

Equally divided votes on a question of procedure

If a vote is equally divided on a question of procedure, a second vote shall be taken at a subsequent meeting which shall be held within forty-eight hours of the first vote, and it shall be expressly mentioned in the agenda that a second vote will be taken on the matter in question. If this vote also results in equality, the proposal shall be regarded as rejected.

VIII. CONSIDERATION OF PLANS OF WORK

Rule 54

Consideration of plans of work

The Commission shall consider applications for the approval of plans of work in accordance with the Regulations on Prospecting, Exploration and Exploitation of Polymetallic Nodules in the Area.

IX. PARTICIPATION BY NON-MEMBERS OF THE COMMISSION

Rule 55* (53)

Participation by members of the Authority and entities carrying out activities in the Area

1. Any member of the Authority may send a representative to attend a meeting of the Commission when a request is made by such member and when a matter particularly affecting it is under consideration.

2. For the purpose of facilitating the work of the Commission, and upon the invitation of the Chairman, such representative shall be allowed to express his position on any such matter being considered by the Commission.

3. The Commission may invite any State or entity carrying out activities in the Area for the purposes of consultation and collaboration, where this is required in accordance with article 165, paragraph 2 (c), of the United Nations Convention on the Law of the Sea.

Rule 56 (54)

Participation by observers

[Observers referred to in rule 93 of the rules of procedure of the Assembly may designate representatives to participate, without right to vote, in the deliberations of the Commission, upon the invitation of the Chairman, on questions affecting them or within the scope of their activities.]

X. LANGUAGES

Rule 57* (55*)

Languages of the Commission

Arabic, Chinese, English, French, Russian and Spanish shall be the languages of the Commission.

Rule 58* (56*)

Interpretation

Speeches made in any of the six languages of the Commission shall be interpreted into the other five languages.

Rule 59* (57*)

Other languages

Any member may make a speech in a language other than the languages of the Commission. In this case, he shall himself provide for interpretation into one of the languages of the Commission. Interpretation into the other languages of the Commission by the interpreters of the Secretariat may be based on the interpretation given in the first such language.

Rule 60* (58*)

Recommendations, proposals and reports

All recommendations, proposals and reports of the Commission shall be published in the languages of the Commission.

XI. RECORDS

Rule 61* (59*)

Records and sound recordings of meetings

1. Summary records of public meetings of the Commission shall be kept in the languages of the Commission. As a general rule they shall be circulated as soon as possible, simultaneously in all languages of the Commission, to all members of the Commission and all members of the Authority, who shall inform the Secretariat within five working days after the circulation of the summary record of any changes they wish to have made.

2. The Secretariat shall make sound recordings of the meetings of the Commission when they so decide.

XII. PRIVATE AND PUBLIC MEETINGS

Rule 62* (60* and 61*)

Private and public meetings

1. The meetings of the Commission shall be held in private unless it decides otherwise.

2. At the close of each private meeting of the Commission, the Chairman shall issue a communiqué through the Secretary-General.

3. All decisions of the Commission taken at a private meeting shall be announced at an early public meeting of the Commission.

LOS/PCN/WP.36/Rev.2
3 February 1989

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
Kingston, 27 February-23 March 1989

FINAL DRAFT RULES OF PROCEDURE OF THE ECONOMIC PLANNING COMMISSION

Working paper by the Secretariat

I. SESSIONS

Rule 1* (1) 1/ 2/

Frequency of sessions

The Economic Planning Commission (hereinafter referred to as the Commission) shall meet as often as required for the efficient exercise of its functions, taking into account, among others, the financial considerations that may influence the frequency of its meetings. 3/

Rule 2* (2)

Place of session

1. The Commission shall normally meet at the seat of the Authority. 4/

1/ The number in parentheses indicates the place of the rule in document LOS/PCN/WP.36/Rev.1.

2/ Rules with asterisks have been provisionally adopted.

3/ Based on art. 163 (12).

4/ Art. 163 (12).

/...

2. Whenever exceptional circumstances warrant meetings of the Commission elsewhere or the business of the Commission so requires, a decision for holding such meetings and also concerning the venue and duration of such meetings shall be taken by the Council upon the recommendation of the Commission, in consultation with the Secretary-General, taking into account possible financial implications of such meetings.

Rule 3* (3)

Convening of session

Taking into account the provisions of rule 1, the Commission shall be convened at the request of:

(a) The Council;

(b) The majority of the members of the Commission;

(c) The Chairman of the Commission; or

(d) The Secretary-General.

Rule 4* (4)

Notification of the members

The Secretary-General shall notify the members of the Commission and the members and observers of the Authority as early as possible of the date and duration of each session.

Rule 5* (5*)

Temporary adjournment of session

The Commission may decide to adjourn any session temporarily and resume it at a later date.

II. AGENDA

Rule 6* (6)

Communication of the provisional agenda

The provisional agenda for each session shall be drawn up by the Secretary-General and communicated to the members of the Commission and the members and observers of the Authority as early as possible but at least 21 days before the

opening of the session. Any subsequent change in or addition to the provisional agenda shall be brought to the notice of the members of the Commission and to the members and observers of the Authority sufficiently in advance of the session.

Rule 7* (7)

Drawing up of the provisional agenda

The provisional agenda of each session shall include:

(a) All items proposed by the Council;

(b) All items proposed by the Commission;

(c) All items proposed by the Chairman of the Commission;

(d) All items proposed by any member of the Commission;

(e) All items proposed by the Secretary-General.

Rule 8* (8)

Adoption of the agenda

At the beginning of each session, the Commission shall, on the basis of the provisional agenda, adopt its agenda for the session, which shall, in any case, include all items proposed by the Council. The Commission may, if necessary, make additions to the agenda at any time during a session, but no item included in the agenda shall be deleted.

III. ELECTIONS AND FUNCTIONS

Rule 9* (9*)

Elections

The members of the Commission shall be elected by the Council in accordance with its rules of procedure. 5/

5/ Art. 163 (2).

Rule 10* (10)

Incompatible activities and confidentiality

Members of the Commission shall have no financial interest in any activity relating to exploration and exploitation in the Area. Subject to their responsibilities to the Commission, they shall not disclose, even after the termination of their functions, any industrial secret, proprietary data which are transferred to the Authority in accordance with annex III, article 14, of the United Nations Convention on the Law of the Sea, or any other confidential information coming to their knowledge by reason of their duties for the Authority. 6/

Rule 11* (11*)

Exercise of functions

The Commission shall exercise its functions in accordance with such guidelines and directives as the Council may adopt. 7/

Rule 12* (12*)

Rules and regulations of the Commission

The Commission shall formulate and submit to the Council for approval such rules and regulations as may be necessary for the efficient conduct of the Commission's functions. 8/

Rule 13* (13)

Consultations

In the exercise of its functions, the Commission may, where appropriate, consult another commission, any competent organ of the United Nations or of its specialized agencies or any international organizations with competence in the subject-matter of such consultation. 9/

6/ Art. 163 (8).

7/ Art. 163 (9).

8/ Art. 163 (10).

9/ Art. 163 (13).

IV. OFFICERS

Rule 14 (14)

Election of Chairman and the Bureau

1. Each year at the first session, the Commission shall elect a Chairman and four [Vice-Chairmen] from among the members of the Commission. In electing the officers, due regard shall be paid to the principle of equitable geographical representation.

2. The Chairman of the previous year shall preside until the Commission has elected a Chairman for the next year.

Rule 15* (15*)

Rapporteur

The Commission may appoint, if necessary, any of the members of the Commission as Rapporteur for any particular question.

Rule 16* (16)

Acting Chairman

1. If the Chairman is absent during a meeting or any part thereof, he shall designate one of the Vice-Chairmen to take his place.

2. If the Chairman ceases to hold office pursuant to rule 18, the remaining members of the Bureau shall designate one of the Vice-Chairmen to take his place until the election of a new Chairman.

Rule 17* (17*)

Powers of the Acting Chairman

A Vice-Chairman acting as Chairman shall have the same powers and duties as the Chairman.

Rule 18* (18*)

Replacement of the Chairman or a Vice-Chairman

If the Chairman or Vice-Chairman ceases to be able to carry out his functions or ceases to be a member of the Commission, he shall cease to hold such office and a new Chairman or Vice-Chairman shall be elected for the unexpired term.

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Rule 19* (19*)

Functions of the Chairman

The Chairman shall preside over the sessions of the Commission and under the authority of the Commission shall represent it in its capacity as an organ of the Council.

Rule 20* (20*)

Exercise of the Chairman's functions

The Chairman, in the exercise of his functions, remains under the authority of the Commission.

V. SECRETARIAT

Rule 21* (21)

Duties of the Secretary-General

1. The Secretary-General shall act in that capacity in all meetings of the Commission. He may designate a member of the secretariat to act as his representative. He shall perform such other functions as are assigned to him by the Commission. 10/

2. The Secretary-General shall provide and direct the staff required by the Commission, taking into account to the greatest extent possible the requirements of economy and efficiency, and be responsible for all the arrangements that may be necessary for its meetings.

3. The Secretary-General shall keep the members of the Commission informed of any questions that may be brought before the Commission for consideration.

4. The Secretary-General shall provide to the Commission, at its request, reports on questions specified by the Commission.

Rule 22* (new)

Estimate of expenditures

The Secretary-General shall prepare and provide to the members of the Commission, as early as possible, a report on the estimated costs involved, as well

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10/ Art. 166 (3).

as on the administrative and budgetary implications of any recommendation or proposal before the Commission. In adopting any such recommendation or proposal the Commission shall take into account the report of the Secretary-General.

Rule 23* (22*)

Duties of the secretariat

The secretariat shall receive, translate, reproduce and distribute recommendations, reports and other documents of the Commission, interpret speeches made at the meetings, prepare and circulate the records of the session; have custody and proper preservation of the documents in the archives of the Commission; and, generally, perform all other work which the Commission may require.

VI. CONDUCT OF BUSINESS

Rule 24* (23*)

Quorum

A majority of the members of the Commission shall constitute a quorum.

Rule 25* (24*)

Powers of the Chairman

In addition to exercising the powers conferred upon him elsewhere in these rules, the Chairman shall declare the opening and closing of each meeting of the Commission, direct the discussions, ensure observance of these rules, accord the right to speak, put questions to the vote and announce decisions. He shall rule on points of order and, subject to these rules, shall have complete control of the proceedings of the Commission and over the maintenance of order at its meetings. The Chairman may, in the course of the discussion of an item, propose to the Commission the limitation of time to be allowed to speakers, the limitation of the number of times each member of the Commission may speak on any question, the closure of the list of speakers or the closure of the debate. He may also propose the suspension or the adjournment of the meeting or of the debate on the question under discussion.

Rule 26* (25*)

Speeches

No member of the Commission may address the Commission without having previously obtained the permission of the Chairman. The Chairman shall call upon

speakers in the order in which they signify their desire to speak. The Chairman may call a speaker to order if his remarks are not relevant to the subject under discussion.

Rule 27* (26*)

Statements by the secretariat

The Secretary-General, or a member of the secretariat designated by him as his representative, may at any time make either oral or written statements to the Commission concerning any questions under consideration by it.

Rule 28* (27*)

Points of order

During the discussion of any matter, a member of the Commission may rise to a point of order, and the point of order shall be immediately decided by the Chairman in accordance with the rules of procedure. A member of the Commission may appeal against the ruling of the Chairman. The appeal shall be immediately put to the vote, and the Chairman's ruling shall stand unless overruled by a majority of the members of the Commission present and voting. A member of the Commission rising to a point of order may not speak on the substance of the matter under discussion.

Rule 29* (28*)

Time-limit on speeches

The Commission may limit the time to be allowed to each speaker and the number of times each member of the Commission may speak on any question. Before a decision is taken, two members of the Commission may speak in favour of, and two against, a proposal to set such limits. When the debate is limited and a member of the Commission exceeds his allocated time, the Chairman shall call him to order without delay.

Rule 30* (29*)

Closing of list of speakers

During the course of a debate, the Chairman may announce the list of speakers and, with the consent of the Commission, declare the list closed. The Chairman may, however, accord the right of reply to any member of the Commission if a speech delivered after he has declared the list closed makes this desirable.

Rule 31* (30*)

Adjournment of debate

During the discussion of any matter, a member of the Commission may move the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, two members of the Commission may speak in favour of, and two against, the motion, after which the motion shall be immediately put to the vote. The Chairman may limit the time to be allowed to speakers under this rule.

Rule 32* (31*)

Closure of debate

A member of the Commission may at any time move the closure of the debate on the question under discussion, whether or not any other member of the Commission has signified his wish to speak. Permission to speak on the motion shall be accorded only to two members of the Commission opposing the closure, after which the motion shall be immediately put to the vote. If the Commission is in favour of the closure, the Chairman shall declare the closure of the debate. The Chairman may limit the time to be allowed to members of the Commission under this rule.

Rule 33* (32*)

Suspension or adjournment of the meeting

During the discussion of any matter, a member of the Commission may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall be immediately put to the vote. The Chairman may limit the time to be allowed to the speaker moving the suspension or adjournment of the meeting.

Rule 34* (33*)

Order of procedural motions

Subject to rule 28, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

(a) To suspend the meeting;

(b) To adjourn the meeting;

(c) To adjourn the debate on the item under discussion;

(d) To close the debate on the item under discussion.

/...

Rule 35* (34*)

Proposals and amendments

Proposals and amendments shall normally be submitted in writing to the Secretary-General, who shall circulate copies to the members of the Commission. As a general rule, no proposal shall be discussed or put to the vote at any meeting of the Commission unless copies of it have been circulated to all members of the Commission not later than the day preceding the meeting. The Chairman may, however, permit the discussion and consideration of amendments, or of motions as to procedure, even though such amendments and motions have not been circulated or have only been circulated the same day.

Rule 36* (35*)

Decision on competence

Subject to rule 34, any motion calling for a decision on the competence of the Commission to adopt a proposal submitted to it shall be put to the vote before a vote is taken on the proposal in question.

Rule 37* (36*)

Withdrawal of proposals and motions

A proposal or a motion may be withdrawn by its proposer at any time before voting on it has commenced, provided that it has not been amended. A proposal or a motion thus withdrawn may be reintroduced by another member of the Commission.

Rule 38 (37)

Reconsideration of proposals

When a proposal has been adopted or rejected, it may not be reconsidered at the same session unless the Commission, by a two-thirds majority of the members of the Commission present and voting, so decides. Permission to speak on a motion to reconsider shall be accorded only to two speakers opposing the motion, after which it shall be immediately put to the vote.

VII. DECISION-MAKING

Rule 39* (38*)

Voting rights

Each member of the Commission shall have one vote. 11/

Rule 40* (39*)

Decisions on questions of procedure

1. Decisions on questions of procedure shall be taken by a majority of the members of the Commission present and voting. 12/

2. If the question arises whether a matter is one of procedure or of substance, the Chairman shall rule on the question. Any appeal against this ruling shall be immediately put to the vote and the Chairman's ruling shall stand unless the appeal is approved by a majority of the members of the Commission present and voting.

Rule 41 (40)

Decisions on questions of substance

1. Except as otherwise provided in these rules, decisions on questions of substance shall be taken by a two-thirds majority of the members of the Commission present and voting. 13/

2. However, before a matter of substance is put to the vote, the Commission shall make every effort to reach agreement on such matters by the way of consensus. 14/

11/ Art. 161 (7).

12/ Art. 161 (8) (a).

13/ In the Chairman's statement (LOS/PCN/L.27/Rev.1) it was observed that "in view of the close interrelation of financial aspects in the different rules of procedure to be prepared for the organs of the Authority, a certain trend developed at this session to consider these matters in their entirety at an appropriate stage". Decision-making in the Economic Planning Commission with respect to financial and budgetary matters can also be considered at that stage.

14/ Since the Commission will be a fairly small body holding frequent meetings, detailed rules on a mechanism for achieving consensus have not been provided. This provision is meant to reflect the spirit of consensus which will guide the Commission's deliberations.

3. For the purpose of this rule, "consensus" means the absence of any formal objection.

Rule 42* (41*)

Meaning of the phrase "members of the Commission present and voting"

For the purposes of these rules, the phrase "members of the Commission present and voting" means members of the Commission present and casting an affirmative or negative vote. Members of the Commission who abstain from voting shall be considered as not voting.

Rule 43* (42)

Recommendations to the Council

Recommendations to the Council shall, wherever necessary, be accompanied by a summary on the divergencies of opinion in the Commission. 15/

Rule 44* (43*)

Method of voting

1. The Commission shall, in the absence of mechanical means for voting, vote by show of hands, but any member of the Commission may request a roll-call. The roll-call shall be taken in the English alphabetical order of the names of the members of the Commission participating in that session, beginning with the member of the Commission whose name is drawn by lot by the Chairman. The name of each member of the Commission shall be called in any roll-call, and the member of the Commission shall reply "yes" or "no" or "abstention". The result of the voting shall be inserted in the record in the English alphabetical order of the names of the members of the Commission.

2. When the Commission votes by mechanical means, a non-recorded vote shall replace a vote by show of hands and a recorded vote shall replace a roll-call vote. Any member of the Commission may request a recorded vote. In the case of a recorded vote, the Commission shall, unless a member of the Commission requests otherwise, dispense with the procedure of calling out the names of the members of the Commission; nevertheless, the result of the voting shall be inserted in the record in the same manner as that of a roll-call vote.

15/ Art. 163 (11).

Rule 45* (44*)

Conduct during voting

After the Chairman has announced the beginning of voting, no member of the Commission shall interrupt the voting, except on a point of order in connection with the actual process of the voting.

Rule 46* (45*)

Explanation of vote

Members of the Commission may make brief statements consisting solely of explanation of their votes before the voting has commenced or after the voting has been completed. The member of the Commission sponsoring a proposal or motion shall not speak in explanation of vote thereon, except if it has been amended.

Rule 47* (46*)

Division of proposals and amendments

A member of the Commission may move that parts of a proposal or of an amendment should be voted on separately. If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against. If the motion for division is carried, those parts of the proposal or of the amendments which are approved shall then be put to the vote as a whole. If all operative parts of the proposal or of the amendments have been rejected, the proposal or the amendment shall be considered to have been rejected as a whole.

Rule 48* (47*)

Order of voting on amendments

When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Commission shall first vote on the amendment furthest removed in substance from the original proposal and then on the amendment next furthest removed therefrom, and so on until all the amendments have been put to the vote. Where, however, the adoption of one amendment necessarily implies the rejection of another amendment, the latter amendment shall not be put to the vote. If one or more amendments are adopted, the amended proposal shall then be voted upon. A motion is considered an amendment to a proposal if it merely adds to, deletes from or revises part of the proposal.

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Rule 49* (48*)

Order of voting on proposals

If two or more proposals relate to the same question, the Commission shall, unless it decides otherwise, vote on the proposals in the order in which they have been submitted. The Commission may, after each vote on a proposal, decide whether to vote on the next proposal.

Rule 50* (49*)

Elections

All elections shall be held by secret ballot unless otherwise decided by the Commission.

Rule 51* (50*)

Restricted balloting for one elective place

1. When only one person is to be elected and no candidate obtains in the first ballot the votes of a majority of the members of the Commission present and voting, a second ballot restricted to the two candidates obtaining the largest number of votes shall be taken. If in the second ballot the votes are equally divided, the Chairman shall decide between the candidates by drawing lots.

2. In the case of a tie in the first ballot among more than two candidates obtaining the largest number of votes, a second ballot shall be held. If on that ballot a tie remains among more than two candidates, the number shall be reduced to two by lot and the balloting, restricted to them, shall continue in accordance with the preceding paragraph.

Rule 52* (51*)

Restricted balloting for two or more elective places

When two or more elective places are to be filled at one time under the same conditions, those candidates, not exceeding the number of such places, obtaining in the first ballot the majority required shall be elected. If the number of candidates obtaining such majority is less than the number of persons or members of the Commission to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled, provided that, after the third inconclusive ballot, votes may be cast for any eligible member of the Commission. If three such unrestricted ballots are inconclusive, the next three ballots shall be restricted to the candidates who obtained the greatest number of votes in the third of the

unrestricted ballots, to a number not more than twice the places remaining to be filled, and the following three ballots thereafter shall be unrestricted, and so on until all the places have been filled.

Rule 53* (52*)

Equally divided votes on a question of procedure

If a vote is equally divided on a question of procedure, a second vote shall be taken at a subsequent meeting which shall be held within forty-eight hours of the first vote, and it shall be expressly mentioned in the agenda that a second vote will be taken on the matter in question. If this vote also results in equality, the proposal shall be regarded as rejected.

XIII. PARTICIPATION BY NON-MEMBERS OF THE COMMISSION

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1. Any member of the Authority may send a representative to attend a meeting of the Commission when a request is made by such member of the Authority and when a matter particularly affecting it is under consideration.

2. For the purpose of facilitating the work of the Commission, and upon the invitation of the Chairman, such representative shall be allowed to express his position on any such matter being considered by the Commission.

3. The Commission may invite any State or entity carrying out activities in the Area for the purpose of consultation.

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[Observers referred to in rule 93 of the rules of procedure of the Assembly may designate representatives to participate, without right to vote, in the deliberations of the Commission, upon the invitation of the Chairman, on questions affecting them or within the scope of their activities.]

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2. The secretariat shall make sound recordings of the meetings of the Commission when they so decide.

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Rule 61* (60* and 61*)

Private and public meetings

1. The meetings of the Commission shall be held in private unless it decides otherwise.

2. At the close of each private meeting of the Commission, the Chairman shall issue a communiqué through the Secretary-General.

3. All decisions of the Commission taken at a private meeting shall be announced at an early public meeting of the Commission.

LOS/PCN/WP.45/Rev.2
20 August 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY
AND FOR THE INTERNATIONAL
TRIBUNAL FOR THE LAW OF THE SEA
New York, 10-21 August 1992

THE FINANCE COMMITTEE

Working paper prepared by the Secretariat

Establishment

The Finance Committee is established as a subsidiary organ of the Assembly and the Council to assist them in the financial administration of the Authority.

Composition

1. The Finance Committee shall be composed of 15 members.

2. No two members of the Finance Committee shall be nationals of the same State Party.

3. No member of the Finance Committee may serve on the Legal and Technical Commission or the Economic Planning Commission or any subsidiary organ.

4. Members of the Finance Committee shall serve in their personal capacity.

Nominations

1. Candidates to the Finance Committee shall be nominated by the States Parties.

2. No State Party may nominate more than one candidate for the Finance Committee.

/...

3. States Parties shall nominate for the Finance Committee candidates of the highest standards of competence and integrity with qualifications and experience in the field of financial management so as to ensure the efficient exercise of the functions of the Committee.

Elections

1. Members of the Finance Committee shall be elected by the Council.

2. In the election of the members of the Finance Committee, due account shall be taken of the need for equitable geographical distribution and the representation of special interests including, until the Authority has sufficient income from sources other than the contributions of States Parties to meet its administrative expenses, the representation of States Parties with the highest contribution to the administrative budget of the Authority.

Term of office

1. Members of the Finance Committee shall serve for a period of three years.

2. The members of the Finance Committee shall retire by rotation and shall be eligible for re-election.

3. The members of the Finance Committee shall be elected by the Council at the regular session immediately preceding the expiration of the term of office of the members or, in case of vacancies, at the next session.

4. In the event of the death, incapacity or resignation of a member of the Finance Committee prior to the expiration of his term of office, the Council shall elect for the remainder of the term a member from the same geographical region or area of interest to be elected by the Council.

Functions*

The Finance Committee shall:

(a) Elaborate the draft financial rules, regulations and procedures pursuant to article 162, paragraph 2 (y), of the United Nations Convention on the Law of the Sea (hereinafter referred to as "the Convention");

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* It should be noted that the power of the Finance Committee to make recommendations in accordance with Annex III, article 13, paragraph 1, with regard to the financial terms of a contract between the Authority and the entities referred to in article 153, paragraph 2 (b), of the Convention (provision 7 of LOS/PCN/1990/CRP.38) should be reviewed at a later stage in the light of all the opinions expressed during the consultations.

(b) Make recommendations to the Council with respect to the rules relating to the financial management of the Authority referred to in article 162, paragraph 2 (o) (ii), of the Convention without prejudice to the functions of the Legal and Technical Commission mentioned therein;

(c) Make recommendations to the Assembly on the assessment of contributions of members to the administrative budget of the Authority in accordance with article 160, paragraph 2 (e), of the Convention;

(d) Make recommendations to the Council and to the Assembly on the proposed annual budget prepared by the Secretary-General (art. 172) (see also LOS/PCN/WP.21);

(e) Make recommendations to the Council and the Assembly, as appropriate, on rules, regulations and procedures on the equitable sharing of financial and other economic benefits and on the decisions to be made on that basis in accordance with article 160, paragraph 2 (f) and (g), and article 162, paragraph 2 (o) (i), of the Convention (art. 173);

(f) Make recommendations to the Council and the Assembly on the financial regulations regarding the limits on borrowing power of the Authority and the Enterprise (arts. 174, para. 2, and 160, para. 2 (f) (ii)), as well as on the exercise of the borrowing power (art. 174, para. 3, and Annex IV, art. 11, para. 2 (a));

(g) Make recommendations to the Council with regard to directives to be issued by the Council to the Enterprise concerning the management of the finances of the Enterprise whenever there is a financial implication;

(h) Make recommendations to the Assembly on the measures to be taken in order to deal with the shortfall deriving from lack of required funds in accordance with Annex IV, article 11, paragraph 3 (c), of the Convention;

(i) Make recommendations to the Council or the Assembly on the financial aspects of the implementation of the programmes of work of the Secretariat;

(j) Make recommendations to the Council in respect of the review of the collection of all payments to be made to the Authority in connection with operations pursuant to Part XI in accordance with article 162, paragraph 2 (p), of the Convention;

(k) Make recommendations to the Council on the annual report submitted by the Enterprise in accordance with Annex IV, article 9, of the Convention;

(l) Make recommendations to the Council and the Assembly, upon their request, on the rules, regulations and procedures, as proposed by the Governing Board of the Enterprise, on the transfer of funds from the Enterprise to the Authority (art. 160, para. 2 (f) (ii)) as well as on the proposal of the Governing Board of the Enterprise as to which portion of the net income of the Enterprise shall be retained as reserves of the Enterprise (Annex IV, art. 10 (2));

(m) Make recommendations to the Council and the Assembly on the schedule for the repayment of interest-free loans in accordance with Annex IV, article 11, paragraph 3 (f), of the Convention;

(n) Make recommendations to the Council on the remuneration to be paid to the members of the Governing Board of the Enterprise in accordance with Annex IV, article 5, paragraph 5, of the Convention;

(o) Make recommendations to the Council and the Assembly on the financial obligations of States Parties arising from the operation of Part XI of the Convention as well as on the administrative and budgetary implications of proposals and recommendations involving expenditures from the funds of the Authority;

(p) Make recommendations to the Council and the Assembly, upon their request, on the draft rules in respect of the organization, management, appointment and dismissal of the staff of the Enterprise, as proposed by the Governing Board of the Enterprise (Annex IV, art. 6, subpara. (1));

(q) Make recommendations to the Council and the Assembly, upon their request, on draft rules in respect of the organization, management, appointment, dismissal and remuneration of the staff of the Secretariat (art. 167, para. 3);

(r) Perform such other functions as may be assigned to it by the Council or the Assembly.

Decision-making

1. Decisions on questions of procedure shall be taken by a majority of the members present and voting.

2. Decisions on questions of substance arising under paragraphs ... (Functions) shall be taken by consensus.

3. Decisions on other matters of substance shall be taken by a two-thirds majority. Before matters of substance are put to the vote, every effort should be made to reach agreement by consensus, and no voting shall take place until all efforts at consensus have been exhausted.

4. If no agreement on a substantive matter, referred to in paragraph 2,has been reached by way of consensus, the Committee shall submit a report to the Council or to the Assembly, as appropriate, reflecting the different views thereon.

Frequency of sessions

The Finance Committee shall meet as frequently as required for the efficient exercise of its functions.

Place of session

The Finance Committee shall normally meet at the seat of the Authority.

Other matters

Other provisions shall follow the general practice reflected in the ordinary rules of procedure.

LOS/PCN/WP.47/Rev.2
28 July 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY AND
FOR THE INTERNATIONAL TRIBUNAL FOR
THE LAW OF THE SEA
New York, 10-21 August 1992

FINAL DRAFT AGREEMENT BETWEEN THE INTERNATIONAL SEABED AUTHORITY AND THE GOVERNMENT OF JAMAICA REGARDING THE HEADQUARTERS OF THE INTERNATIONAL SEABED AUTHORITY

Working paper by the Secretariat

The International Seabed Authority and the Government of Jamaica,*

Having regard to the United Nations Convention on the Law of the Sea of 10 December 1982, which establishes the International Seabed Authority; 1/

Taking into account the provisions of article 156, paragraph 4, of the Convention, that provides that the seat of the International Seabed Authority shall be in Jamaica;

Recognizing the need to ensure the availability of all necessary facilities to enable the International Seabed Authority to perform its functions as required by the Convention;

Desiring to conclude an agreement for the purpose of regulating, in accordance with the Convention, questions relating to the establishment and functioning of the International Seabed Authority in Jamaica;

Have agreed as follows:

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* Articles or parts thereof indicated by asterisks have been provisionaly adopted.

1/ Jamaica ratified the United Nations Convention on the Law of the Sea on 21 March 1983.

Article 1*

Use of terms

For the purposes of this Agreement:

(a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;

(b) "Authority" means the International Seabed Authority as defined in the Convention;

(c) "States Parties" has the same meaning as defined in article 1 of the Convention;

(d) "Government" means the Government of Jamaica;

(e) "competent authorities" means such government, municipal or other authorities in Jamaica as may be appropriate in the context and in accordance with the laws applicable in Jamaica;

(f) "Headquarters" means:

(i) the area, defined in annex I to this Agreement, with the building or buildings upon it; and

(ii) any other land, buildings or part of buildings which may be included therein by supplementary agreement between the Authority and the Government;

(g) "Secretary-General" means the Secretary-General of the International Seabed Authority or his authorized representative;

(h) "laws of Jamaica" means the Constitution of Jamaica, statute law and regulations made pursuant to statutes and includes common law;

(i) "representatives of States Parties" means delegates, deputy delegates, advisers and any other accredited members of delegations;

(j) "officials of the Authority" means the Secretary-General and all members of the staff of the Authority, except those who are locally recruited and assigned to hourly rates;

(k) "Enterprise" means the organ of the Authority as provided for in the Convention;

(l) "Director-General" means the Director-General of the Enterprise;

(m) "observers of the Authority" means States and intergovernmental and non-governmental organizations which enjoy such status with the Authority;

/...

(n) "observer State" means a State which enjoys observer status with the Authority;

(o) "representatives of observer States" means delegates, deputy delegates, advisers and any other accredited members of delegations;

(p) "domestic staff" means the persons employed exclusively in the domestic service of the representatives of States Parties, of the representatives of observers of the Authority and the officials of the Authority;

(q) "experts" means experts performing missions for the Authority;

(r) "permanent mission" means a mission of permanent character, representing a State Party;

(s) "permanent observer mission" means a mission of permanent character, representing an observer State;

(t) "members of the permanent mission" or "members of the permanent observer mission" means the head of the mission and the members of the staff;

(u) "Protocol" means the Protocol on the Privileges and Immunities of the Authority;

(v) "archives" includes records and correspondence, documents, manuscripts, maps, still and moving pictures, films and sound recordings belonging to or held by the Authority in Jamaica.

Article 2*

The seat of the Authority

1. The seat of the Authority shall be in Jamaica.

2. Jamaica grants to the Authority, and the Authority accepts from Jamaica, for the permanent use and occupation by the Authority the area as defined in the annex to this Agreement and such other facilities on such terms and conditions as specified in supplementary agreements.

3. The Headquarters shall not be removed, either temporarily or permanently, from the area defined in the annex to this Agreement to any other place in Jamaica unless the Authority, with the agreement of the Government, so decides.

4. Any building or buildings outside the Headquarters which may be temporarily used with the concurrence of the Government for meetings convened by the Authority shall be considered as included in the Headquarters.

Article 3*

Legal personality and capacity of the Authority

The Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes in accordance with the Convention; consequently it has, in particular, the capacity: 2/

(a) To contract;

(b) To acquire and dispose of immovable and movable property; and

(c) To be a party to legal proceedings.

Article 4*

Law and authority in the Headquarters

1. The Headquarters shall be under the authority and control of the Authority in accordance with this Agreement.

2. The Authority shall have the power to adopt regulations, operative within the Headquarters, for the purpose of establishing therein the conditions in all respects necessary for the full and independent exercise of its functions.

3. The Authority shall promptly inform the Government of regulations adopted by it in accordance with paragraph 2.

4. Except as otherwise provided in this Agreement and subject to the provisions of paragraphs 2 and 5, the laws of Jamaica shall apply in the Headquarters.

5. No law of Jamaica which is inconsistent with a regulation of the Authority authorized by paragraph 2 shall, to the extent of such inconsistency, be applicable in the Headquarters.

6. Any dispute between the Authority and Jamaica as to whether a regulation of the Authority is authorized by paragraph 2, or as to whether a law of Jamaica is inconsistent with any regulation of the Authority authorized by paragraph 2, shall be promptly settled by the procedure set out in article 49. Pending such settlement, the regulation of the Authority shall apply and the law of Jamaica shall be inapplicable in the Headquarters to the extent that the Authority claims it to be inconsistent with the regulation of the Authority.

2/ Article 176.

7. Except as otherwise provided in this Agreement, the courts of Jamaica or other competent authorities shall have jurisdiction, as provided in applicable laws, over acts done and transactions taking place in the Headquarters.

8. The courts of Jamaica or other competent authorities, when dealing with cases arising out of or relating to acts done or transactions taking place in the Headquarters, shall take into account the regulations adopted by the Authority under paragraph 2.

9. The Authority may expel or exclude persons from the Headquarters for violation of its regulations adopted under this article, or for any other proper cause.

10. Without prejudice to the provisions of this article, the regulations of the competent authorities relating to fire protection and sanitation shall be respected.

Article 5*

Inviolability of the Headquarters

1. The Headquarters shall be inviolable. No officer or official of Jamaica, or other person exercising any public authority within Jamaica, shall enter the Headquarters to perform any duties therein except with the express consent of, or at the request of, the Secretary-General, and under conditions approved by him.

2. The service of legal process, including the seizure of private property, shall not take place within the Headquarters except with the express consent of, and under conditions approved by, the Secretary-General.

3. Without prejudice to the provisions of this Agreement, the Authority shall prevent the Headquarters from being used as a refuge from justice by persons who are avoiding arrest under any law of Jamaica, or who are required by the Government for extradition, expulsion or deportation to another country, or who are endeavouring to avoid service of legal process.

4. In case of fire or other emergency requiring prompt protective action or in the event that the competent authorities have reasonable cause to believe that such an emergency has occurred, the consent of the Secretary-General to entry of the Headquarters by the competent authorities shall be presumed if the Secretary-General cannot be reached in time. Every effort shall be made to seek such consent.

5. Subject to paragraphs 1 and 2, nothing in this article shall preclude the official delivery by the postal service of Jamaica of letters and documents to the Headquarters.

Article 6*

Protection of the Headquarters

1. The competent authorities shall exercise due diligence to ensure that the tranquillity of the Headquarters and free access thereto are not disturbed by the unauthorized entry of any person or group of persons from outside or by disturbances in its immediate vicinity, and shall provide the Headquarters with such appropriate protection as may be required.

2. If so requested by the Secretary-General, the competent authorities shall provide a sufficient number of police for the preservation of law and order in the Headquarters, and for the removal therefrom of persons as requested.

3. The competent authorities shall take all necessary measures to ensure that the Authority shall not be dispossessed of all or any part of the Headquarters without the express consent of the Authority.

Article 7*

Vicinity of the Headquarters

1. The competent authorities shall take all necessary steps to ensure that the amenities of the Headquarters are not prejudiced and that the purposes for which the Headquarters is intended are not obstructed by the use made of the land and buildings in the vicinity of the Headquarters.

2. The Authority shall take all necessary steps to ensure that the Headquarters is not used for other purposes than those for which it is intended and ensure that the land and buildings in its vicinity are not unreasonably obstructed.

Article 8*

Flag and emblem

The Authority shall be entitled to display its flag and emblem in the Headquarters and on vehicles used for official purposes.

Article 9*

Public services in the Headquarters

1. The competent authorities shall do their utmost to ensure that the Authority shall be provided, on fair and equitable terms but in any case not less favourable than those accorded to the agencies of the Government, with

necessary utilities and public services, including but not limited to electricity, water, gas, sewerage, collection of waste, fire protection and local transportation.

2. In case of any interruption or threatened interruption of any such services, the competent authorities shall consider the needs of the Authority as being of equal importance with those of essential agencies of the Government, and shall take steps accordingly to ensure that the work of the Authority is not prejudiced.

3. Upon the request of the competent authorities, the Secretary-General shall make suitable arrangements to enable duly authorized representatives of the appropriate public services to inspect, repair, maintain, reconstruct and relocate utilities, conduits, mains and sewers within the Headquarters under conditions which shall not unreasonably disturb the carrying out of the functions of the Authority.

4. In cases where gas, electricity or water is supplied by the competent authorities, or where the prices thereof are under their control, the Authority shall be supplied at rates which shall not exceed the lowest comparable rates accorded to the agencies of the Government.

5. The Government shall do its utmost to ensure that the Authority is provided at all times with gasoline or other fuels and lubricating oils for each automobile operated by the Authority on terms and conditions as may be established for diplomatic missions in Jamaica.

Article 10*

Communications facilities

1. For the purposes of its official communications, the Authority shall enjoy as far as is compatible with international agreements, regulations and arrangements to which Jamaica is a party treatment at least as favourable as that which is accorded to diplomatic missions in Jamaica and to international organizations in the matter, inter alia, of priorities, rates and taxes applicable to mail and different forms of telecommunications.

2. The competent authorities shall secure the inviolability of all communications and correspondence directed to the Authority, or to any of the officials of the Authority in the Headquarters, as well as all outgoing communications and correspondence of the Authority, by whatever means or in whatever form transmitted, and they shall be immune from censorship and from any other form of interception or interference with their privacy. Such inviolability shall extend, without limitation by reason of this enumeration, to publications, still and moving pictures, films and sound or videotape recordings dispatched to or by the Authority.

3. The Authority shall have the right to use codes and to dispatch and receive its correspondence and other materials by courier or in sealed bags, which shall have the same privileges and immunities as diplomatic couriers and bags.

4. (a) The Authority may establish and operate at the Headquarters:

(i) Its own short-wave sending and receiving radio broadcasting facilities, including emergency link equipment which may be used on the same frequencies, within the tolerances prescribed for the broadcasting service by applicable Jamaican regulations, for radiotelegraph, radiotelephone and similar services;

(ii) Such other radio facilities as may be specified by supplementary agreement between the Authority and the competent authorities;

(b) The Authority shall make arrangements for the operation of the services referred to in this paragraph with the International Telecommunication Union, the appropriate agencies of the Government and the appropriate agencies of other affected Governments with regard to all frequencies and similar matters.

5. The facilities provided for in paragraph 4 may, to the extent necessary for efficient operation, be established and operated outside the Headquarters with the consent of the Government.

6. If so requested by the Secretary-General, the competent authorities shall provide for the official purposes of the Authority appropriate radio and other telecommunication facilities in conformity with the regulations of the International Telecommunication Union. These facilities may be specified by supplementary agreement between the Authority and the competent authorities.

Article 11*

Freedom of publication and broadcasting

The Government recognizes the right of the Authority freely to publish and broadcast within Jamaica in the fulfilment of its purposes set out in the Convention. It is, however, understood that the Authority shall respect any laws of Jamaica or any international agreements to which Jamaica is a party, relating to publications and broadcasting.

Article 12*

Freedom of assembly

1. The Government recognizes the right of the Authority to convene meetings within the Headquarters or, with the concurrence of the Government, elsewhere in Jamaica.

2. To ensure full freedom of assembly and discussion, Jamaica shall take all proper steps to guarantee that no impediment is placed in the way of conducting the proceedings of any meeting convened by the Authority.

Article 13*

Inviolability of archives

1. The archives of the Authority, wherever located, shall be inviolable. 3/

2. The location of the archives of the Authority shall be made known to the competent authorities if it is at a place other than in the Headquarters.

Article 14*

Immunity and exemptions of the Authority, its property and assets

1. The Authority, its property and assets shall enjoy immunity from legal process except to the extent that the Authority expressly waives this immunity in a particular case. 4/

2. The property and assets of the Authority, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action. 5/

3. The property and assets of the Authority shall be exempt from restrictions, regulations, controls and moratoria of any nature. 6/

Article 15*

Exemption from taxes and customs duties

1. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorized by the Convention, shall be exempt from all direct taxation, and goods imported

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3/ Article 181 (1).

4/ Article 178.

5/ Article 179.

6/ Article 180.

or exported for its official use shall be exempt from all customs duties. The Authority shall not claim exemption from taxes, which are no more than charges for services rendered. 7/

2. When purchases of goods or services of substantial value necessary for the official activities of the Authority are made by or on behalf of the Authority, and when the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by the Government to grant exemption from such taxes or duties or provide for their reimbursement. With respect to such taxes or duties, the Authority shall at all times enjoy at least the same exemptions as are granted to the heads of diplomatic missions in Jamaica.

3. Goods imported or purchased under an exemption provided for in this article shall not be sold or otherwise disposed of in the territory of Jamaica, except under conditions agreed with the Government. 8/

Article 16*

Financial facilities

1. Without being subject to any financial controls, regulations or moratoria of any kind, the Authority may freely:

(a) Purchase any currencies through authorized channels and hold and dispose of them;

(b) Operate accounts in any currencies;

(c) Purchase through authorized channels, hold and dispose of funds, securities and gold;

(d) Transfer its funds, securities, gold and foreign currencies to or from Jamaica, to or from any other country, or within Jamaica; and

(e) Raise funds through the exercise of its borrowing power or in any other manner which it deems desirable, except that with respect to the raising of funds within Jamaica, the Authority shall obtain the concurrence of the Government.

2. The Government shall employ its best endeavours to enable the Authority to obtain the most favourable conditions as regards exchange rates, banking commissions in exchange transactions and the like.

7/ Article 183 (1).

8/ Article 183 (2).

3. The Authority shall, in exercising its rights under this article, pay due regard to any representations made by the Government in so far as effect can be given to such representations without detriment to the interests of the Authority.

Article 17* (16 bis) 9/

Principal office of the Enterprise

The Enterprise shall have its principal office at the seat of the Authority. 10/

Article 18* (17)

Legal status of the Enterprise

The Enterprise shall, within the framework of the international legal personality of the Authority, have such legal capacity as is necessary for the exercise of its functions and fulfilment of its purposes and, in particular, the capacity:

(a) To enter into contracts, joint arrangements or other arrangements, including agreements with States and international organizations;

(b) To acquire, lease, hold and dispose of immovable and movable property;

(c) To be a party to legal proceedings. 11/

Article 19* (17 bis)

Position of the Enterprise with regard to judicial process

1. Actions may be brought against the Enterprise in a court of competent jurisdiction in Jamaica. 12/

9/ The numbers in parentheses for articles 17-25 indicate the place of the article in document LOS/PCN/1989/CRP.33.

10/ Annex IV, article 8.

11/ Ibid., article 13 (2).

12/ Ibid., article 13 (3) (a).

2. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before the delivery of final judgement against the Enterprise. 13/

Article 20* (18)

Immunity of the property and assets of the Enterprise

1. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from requisition, confiscation, expropriation or any other form of seizure by executive or legislative action. 14/

2. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be free from discriminatory restrictions, regulations, controls and moratoria of any nature. 15/

Article 21* (18 bis)

Respect for laws of Jamaica by the Enterprise

The Enterprise shall respect the laws of Jamaica. 16/

Article 22* (19)

Rights, privileges and immunities of the Enterprise

1. The Government shall ensure that the Enterprise enjoys all rights, privileges and immunities accorded by it to entities conducting commercial activities in its territory. These rights, privileges and immunities shall be accorded to the Enterprise on no less favourable a basis than that on which they are accorded to entities engaged in similar commercial activities. If special privileges are provided by Jamaica for developing States or their commercial entities, the Enterprise shall enjoy those privileges on a similarly preferential basis. 17/

13/ Ibid., article 13 (3) (b).

14/ Ibid., article 13 (4) (a).

15/ Ibid., article 13 (4) (b).

16/ Ibid., article 13 (4) (c).

17/ Ibid., article 13 (4) (d).

2. The Government may provide special incentives, rights, privileges and immunities to the Enterprise without the obligation to provide such incentives, rights, privileges and immunities to other commercial entities. 18/

Article 23* (19 bis)

Exemption from direct and indirect taxation

The Government and the Enterprise shall enter into special agreements concerning the exemption of the Enterprise from direct and indirect taxation. 19/

Article 24* (19 ter)

Financial facilities for the Enterprise

1. The Enterprise shall have the power to borrow funds and to furnish such collateral or other security as it may determine. Before making a public sale of its obligations in the financial markets or currency of Jamaica, the Enterprise shall obtain the approval of the Government. 20/

2. Except as provided in paragraph 1, the Government shall not maintain or impose restrictions on the holding, use or exchange of the funds made available to the Enterprise. 21/

Article 25* (19 quater)

Waiver of immunity by the Enterprise

The Enterprise may waive any of the privileges and immunities conferred under articles 18, 19, 20, 21, 22 and 23 of this Agreement or in the special agreements provided for in article 51 to such extent and upon such conditions as it may determine. 22/

18/ Ibid., article 13 (4) (e).

19/ Ibid., article 13 (5).

20/ Ibid., article 11 (2) (a).

21/ Ibid., article 11 (3) (g).

22/ Ibid., article 13 (7).

Article 26* (20) 23/

Freedom of access and residence

1. The Government shall take all necessary measures to facilitate the entry into and residence in Jamaican territory and shall place no impediment in the way of the departure from Jamaican territory of the persons listed below; it shall ensure that no impediment is placed in the way of their transit to or from the Headquarters and shall afford them any necessary protection in transit:

(a) Representatives of States Parties and of observers of the Authority, including alternate representatives, advisers, experts and staff, as well as their spouses, dependent members of their families and domestic staff;

(b) Officials of the Authority, as well as their spouses, dependent members of their families and domestic staff;

(c) Officials of the United Nations or of any of its specialized agencies or the International Atomic Energy Agency, attached to the Authority and who have official business with the Authority, as well as their spouses, dependent members of their families and domestic staff;

(d) Representatives of other organizations with which the Authority has established official relations and who have official business with the Authority as well as their spouses and dependent members of their families;

(e) Persons on mission for the Authority but who are not officials of the Authority, as well as their spouses and dependent members of their families;

(f) Representatives of the press, radio, film, television or other information media, who have been accredited to the Authority at its discretion after consultation with the Government;

(g) All persons invited by the Authority to the Headquarters on official business. The Secretary-General shall communicate the names of such persons to the Government before their intended entry.

2. This article shall not apply in the case of general interruptions of transportation, which shall be dealt with as provided in article 9, paragraph 2, and shall not impair the effectiveness of generally applicable laws relating to the operations of means of transportation.

3. Visas, where required for persons referred to in paragraph 1, shall be granted without charge and as promptly as possible.

23/ The numbers in parentheses for the remainder of the articles indicate the place of the article in document LOS/PCN/WP.47/Rev.1.

4. No activity performed by any person referred to in paragraph 1 in his official capacity with respect to the Authority shall constitute a reason for preventing his entry into or his departure from the territory of Jamaica or for requiring him to leave such territory.

5. No person referred to in paragraph 1 shall be required by the Government to leave Jamaica save in the event of an abuse of the right of residence, in which case the following procedures shall apply:

(a) No proceeding shall be instituted to require any such person to leave Jamaica except with the prior approval of the Minister for Foreign Affairs of Jamaica;

(b) In the case of the representative of a State Party or observer State, such approval shall be given only after consultation with the Government of the State Party or observer State concerned;

(c) In the case of any other person mentioned in paragraph 1, such approval shall be given only after consultation with the Secretary-General, and if expulsion proceedings are taken against any such person, the Secretary-General shall have the right to appear or to be represented in such proceedings on behalf of the person against whom such proceedings are instituted; and

(d) Officials of the Authority who are entitled to diplomatic privileges and immunities under article 34 shall not be required to leave Jamaica otherwise than in accordance with the customary procedure applicable to members, having comparable rank, of diplomatic missions in Jamaica.

6. It is understood that persons referred to in paragraph 1 shall not be exempt from the reasonable application of quarantine and other health regulations.

7. This article shall not prevent the requirement of reasonable evidence to establish that persons claiming the rights granted by this article come within the classes described in paragraph 1.

8. The Secretary-General and the competent authorities shall, at the request of either of them, consult as to methods of facilitating entry into Jamaica by persons coming from abroad who wish to visit the Headquarters and do not enjoy the privileges and immunities provided by articles 33, 34, 35 and 36.

Article 27* (21)

Establishment of missions

1. A State Party may establish a permanent mission and an observer State may establish a permanent observer mission in Jamaica for the purposes of the

representation of that State to the Authority. Such mission shall be accredited to the Authority. 24/

2. A State Party and an observer State shall notify the Secretary-General of their intention to establish a permanent mission or observer mission.

3. The Secretary-General shall notify the Government of the intention of a State Party or an observer State to establish a permanent mission or a permanent observer mission upon receipt of such notification.

4. The permanent mission or the permanent observer mission shall notify the Secretary-General of the names of the members of their missions, as well as the names of spouses and dependent members of their families.

5. The Secretary-General shall communicate to the Government a list of persons referred to in paragraph 4 and shall revise such list from time to time as may be necessary.

6. The Government shall provide the members of the permanent mission or the permanent observer mission and their spouses and dependent members of their families with an identity card certifying that they are enjoying the privileges, immunities and facilities specified in this Agreement. This card shall serve to identify the holder in relation to the competent authorities.

Article 28* (22)

Privileges and immunities of missions

The permanent mission or the permanent observer mission shall enjoy the same privileges and immunities as are accorded to a diplomatic mission in Jamaica.

24/ It was the view of the plenary that a reference to observer States in paragraph 1 should be further analysed in the light of the outcome of the consultations on the hard-core issue of "observers". While it seemed advisable to consider the possibility of the setting up of missions by the observers referred to in articles 156, paragraph 3, and 169 of the Convention, it was noted that some observers who would participate in the work of the Authority might not have the full range of interests that would justify the inclusion of a provision granting them the right to establish missions.

Article 29* (23)

Privileges and immunities of members of missions

Members of the permanent mission or of the permanent observer mission shall be entitled to the same privileges and immunities as the Government accords to the members, having comparable rank, of a diplomatic mission in Jamaica.

[Article 30 (34)]

[Premises]

[Deleted]

Article 30* (31)

Notification

1. The States Parties or the observer States shall notify the Authority of the appointment, position and title of the members of the permanent mission or of the observer mission, their arrival, final departure or the termination of their functions with the mission and any other changes affecting their status that occur in the course of their service with the mission.

2. The Authority shall provide the Government with the information referred to in paragraph 1.

Article 31* (32)

Assistance by the Authority in respect of privileges and immunities

1. The Authority shall, where necessary, assist the States Parties or the observer States, their permanent missions and the members of such missions in securing the enjoyment of the privileges and immunities provided for under this Agreement.

2. The Authority shall, where necessary, assist the Government in securing the discharge of the obligations of the States Parties and of the observer States, their missions and members of such missions in respect of the privileges and immunities provided for under this Agreement.

Article 32* (33)

Privileges and immunities of the representatives of States Parties and of observer States

1. Representatives of States Parties and observer States attending meetings convened by the Authority shall, while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(a) Immunity from personal arrest or detention and from seizure of their personal baggage;

(b) Immunity in respect of words spoken or written and all acts done by them in their official capacity as representatives and immunity from legal process of every kind;

(c) Inviolability for all papers and documents;

(d) The right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) Exemption from immigration restrictions, alien registration and national service obligations in the State they are visiting or through which they are passing in the exercise of their functions for themselves;

(f) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(g) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;

(h) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic agents enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes; and also

(i) Enjoyment of the same protection and repatriation facilities as are accorded to members of diplomatic missions in Jamaica, in time of international crisis.

2. The facilities, privileges and immunities granted to the representatives of States Parties and observer States in paragraphs 1 (a), (e) and (i) shall extend to their spouses and dependent members of their families.

3. In order to secure, for the representatives of States Parties and observer States attending meetings convened by the Authority, complete freedom of speech and independence in the discharge of their duties, the immunity from

legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of States Parties or observer States.

4. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of States Parties or observer States attending meetings convened by the Authority are present in a State for the discharge of their duties shall not be considered as periods of residence.

5. Privileges and immunities are accorded to the representatives of States Parties and observer States, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Authority. Consequently a State Party or an observer State not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of that State the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

6. The provisions of paragraphs 1, 2, 3 and 4 are not applicable as between a representative and the authorities of the State Party or observer State of which he is a national or of which he is or has been the representative.

7. The Authority shall communicate to the Government in due time the names of the representatives referred to in this article.

Article 33* (34)

Privileges and immunities of the officials of the Authority

1. Without prejudice to article 34, the officials of the Authority, regardless of their nationality and rank, shall enjoy in Jamaican territory the following privileges and immunities:

(a) Immunity from legal process in respect of words spoken and written, and of acts performed by them in their official capacity; such immunity to continue notwithstanding that the persons concerned may have ceased to be officials of the Authority;

(b) Immunity from personal arrest or detention in relation to acts performed by them in their official capacity;

(c) Immunity from inspection and seizure of personal and official baggage, except in case of flagrante delicto. In such cases the competent authorities shall immediately inform the Secretary-General. Inspections shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the Secretary-General;

(d) Exemption from taxation in respect of salaries and emoluments paid or any other form of payment made by the Authority;

(e) Exemption from any form of taxation on income derived by them from sources outside Jamaica;

(f) Exemption from registration fees in respect of their automobiles;

(g) Exemption from immigration restrictions and alien registration procedures;

(h) Exemption from national service obligations, provided that, with respect to Jamaican nationals, such exemption shall be confined to officials of the Authority whose names have, by reason of their duties, been placed upon a list compiled by the Secretary-General and approved by the Government; provided further that, should officials of the Authority, other than those listed, who are Jamaican nationals be called up for national service, the Government shall, upon request of the Secretary-General, grant such temporary deferments in the call-up of such officials of the Authority as may be necessary to avoid interruption of the essential work of the Authority;

(i) The right to purchase petrol free of duty for their vehicles on similar terms as are accorded to members of diplomatic missions in Jamaica;

(j) Exemption for themselves for the purpose of official business from any restrictions on movements and travel inside Jamaica;

(k) In regard to foreign exchange, including holding accounts in foreign currencies, enjoyment of the same facilities as are accorded to members of diplomatic missions in Jamaica;

(l) Enjoyment of the same protection and repatriation facilities as are accorded to members of diplomatic missions in Jamaica, in time of international crisis;

(m) The right to import for personal use, free of duty and other levies, prohibitions and restrictions on imports:

(i) Their furniture, household and personal effects, in one or more separate shipments, and thereafter to import necessary additions to the same;

(ii) In accordance with the relevant laws of Jamaica, one automobile, every three years, and in cases where the official is accompanied by dependants, a second automobile on the basis of representations to the Government by the Secretary-General; however, where the Secretary-General and the Government agree, in particular cases, replacement may take place at an earlier date in the event of loss, extensive damage or otherwise; automobiles may be sold in Jamaica after their importation, subject to the laws concerning the payment

of customs duties and established diplomatic practice in Jamaica during his or her assignment. After three years such automobiles can be sold without payment of customs duties;

(iii) Reasonable quantities of certain articles including liquor, tobacco, cigarettes and foodstuffs, for personal use or consumption and not for gift or sale. The Authority may establish a commissary for the sale of such articles to the officials of the Authority and members of delegations. A supplementary agreement shall be concluded between the Secretary-General and the Government to regulate the exercise of these rights.

2. The facilities, privileges and immunities granted to the officials of the Authority in paragraphs 1 (g), 1 (h), 1 (j) and 1 (l) shall extend to their spouses and to dependent family members.

Article 34* (35)

Additional privileges and immunities of the Secretary-General and other senior officials of the Authority

1. The Secretary-General and the Director-General shall be accorded the same privileges and immunities as are accorded to heads of diplomatic missions in Jamaica.

2. Officials of the Authority at the P-5 level and above, and such additional categories of officials of the Authority as may be designated in an agreement with the Government by the Secretary-General on the ground of the responsibilities of their positions in the Authority regardless of their nationality, shall enjoy the privileges and immunities as the Government accords to the members, having comparable rank, of a diplomatic mission in Jamaica.

Article 35* (36)

Application of the Agreement to officials of other international organizations

The provisions of articles 33, 34, paragraph 2, and 37 shall apply to the officials of the United Nations and of its specialized agencies and the International Atomic Energy Agency, attached to the Authority on a continuing basis.

Article 36* (37)

Privileges and immunities of experts

1. Experts, other than the officials of the Authority, while performing the functions assigned to them by the Authority or in the course of their travel to take up these functions or perform these duties, shall enjoy the following privileges, immunities and facilities that are necessary for the effective exercise of their duties:

(a) Immunity from legal process in respect of words spoken and written and all acts performed by them in their official capacity, such immunity to continue notwithstanding that the persons concerned may have ceased to exercise their functions with the Authority;

(b) Immunity from personal arrest or detention in relation to acts performed by them in their official capacity;

(c) Immunity from inspection and seizure of personal and official baggage, except in cases of flagrante delicto. In such cases the competent authorities shall immediately inform the Secretary-General. Inspections shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the Secretary-General;

(d) Exemption from taxation in respect of the salaries and emoluments paid or any other form of payment made by the Authority, provided that nationals of Jamaica may enjoy such exemptions as may be accorded by the Government;

(e) Inviolability of all papers, documents and other official material;

(f) The right, for the purpose of all communications with the Authority, to use codes and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags;

(g) Exemption from immigration restrictions, alien registration and national service obligations;

(h) Enjoyment of the same protection and repatriation facilities as are accorded to the members of diplomatic missions in Jamaica;

(i) The same privileges with respect to currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. The facilities, privileges and immunities granted to experts in paragraphs 1 (g) and (h) shall extend to their spouses and dependent family members.

Article 37* (38)

Waiver of immunity of the officials of the Authority and experts

Privileges and immunities are granted to the officials of the Authority and experts in the interests of the Authority and not for their own personal benefit. The Secretary-General shall have the right and duty to waive the immunity of any official of the Authority or expert in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Authority. In the case of the Secretary-General, the Council shall have the right to waive the immunity.

Article 38* (39)

List of officials of the Authority and experts

The Secretary-General shall communicate to the Government a list of persons referred to in articles 33, 34, 35 and 36 and shall revise such list from time to time as may be necessary.

Article 39* (40)

Abuse of privilege or immunity

1. The Secretary-General shall take every precaution to ensure that no abuse of a privilege or immunity conferred by this Agreement shall occur, and for this purpose the Council shall adopt rules and regulations as may be deemed necessary and expedient, for officials of the Authority.

2. Should the Government consider that an abuse of a privilege or immunity conferred by this Agreement has occurred, the Secretary-General shall, upon request, consult with the Government to determine whether any such abuse has occurred. If such consultations fail to achieve a result satisfactory to the Secretary-General and to the Government, the matter shall be determined in accordance with the procedure set out in article 49.

[Article 41* (32)]

[Privileges and immunities of the members of the families]

[Deleted]

Article 40* (42)

Identity card

The Government shall provide the officials of the Authority and the experts with an identity card certifying that they are enjoying the privileges, immunities and facilities specified in this Agreement. This card shall also serve to identify the holder in relation to the competent authorities.

Article 41* (43)

Cooperation with the competent authorities

The Authority shall cooperate at all times with the competent authorities to facilitate the proper administration of justice, secure the observance of police regulations and avoid the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Agreement.

Article 42* (44)

Respect for the laws of Jamaica

Without prejudice to the privileges, immunities and facilities accorded by this Agreement, it is the duty of all persons enjoying such privileges, immunities and facilities to respect the laws of Jamaica. They also have the duty not to interfere in the internal affairs of Jamaica.

Article 43* (45)

Laissez-passer 25/

1. The Government shall recognize and accept laissez-passer issued to the officials of the Authority as a valid travel document equivalent to a passport.

2. The Government shall recognize and accept certificates issued to experts and other persons travelling on the business of the Authority. The Government agrees to issue any required visas based on such certificates.

3. Applications for visas from the holders of laissez-passer, when accompanied by a certificate that they are travelling on the business of the Authority, shall be dealt with as speedily as possible.

25/ It should be noted that the relationship between the Authority and the United Nations has not yet been considered.

4. Similar facilities to those specified in paragraph 3 shall be accorded to experts and other persons who, though not holders of laissez-passer, have a certificate that they are travelling on the business of the Authority.

Article 44* (46)

Social security and pension funds 26/

1. The (Joint) Staff Pension Fund shall enjoy legal capacity in Jamaica and shall enjoy the same exemptions, privileges and immunities as the Authority itself.

2. The Authority shall be exempt from all compulsory contributions to, and officials of the Authority shall not be required by the Government to participate in, any social security scheme of Jamaica.

3. The Government shall make such provision as may be necessary to enable any official of the Authority who is not afforded social security coverage by the Authority to participate, if the Authority so requests, in any social security scheme of Jamaica, to the extent that such scheme exists. The Authority shall, in so far as possible, arrange, under conditions to be agreed upon, for the participation in any Jamaican social security system, to the extent that such a system exists, of those locally recruited members of its staff who do not participate in the (Joint) Staff Pension Fund or to whom the Authority does not grant social security protection at least equivalent to that offered under the laws of Jamaica.

Article 45* (47)

Responsibility, liability and insurance

1. Jamaica shall not incur by reason of the location of the Headquarters within its territory any international responsibility for acts or omissions of the Authority or of its officials acting or abstaining from acting within the scope of their functions, other than the international responsibility which Jamaica would incur as a member of the Authority.

26/ The conditions for membership in the United Nations Joint Staff Pension Fund are set out in article 3 (c) of the Regulations and Rules of the United Nations Joint Staff Pension Fund which reads as follows: "Admission to membership in the Fund shall be by decision of the General Assembly, upon the affirmative recommendation of the Board, after acceptance by the organization concerned of these Regulations and agreement reached with the Board as to the conditions which shall govern its admission." It should be noted that the relationship between the Authority and the United Nations has not yet been considered.

2. Without prejudice to its immunities under this Agreement, the Authority shall carry insurance to cover liability for any injury or damage arising from activities of the Authority in Jamaica or from its use of the Headquarters that may be suffered by persons other than the officials of the Authority, or by the Government. To this end, the competent authorities shall make every reasonable effort to secure for the Authority, at reasonable rates, insurance coverage permitting claims to be submitted directly to the insurer by parties suffering injury or damage. Such claims and liability shall, without prejudice to the privileges and immunities of the Authority, be governed by the laws of Jamaica.

Article 46* (48)

Security

Without prejudice to the performance of its functions by the Authority in a normal and unrestricted manner, the Government may take every preventive measure to preserve the national security of Jamaica after consultation with the Secretary-General.

Article 47* (49)

Responsibility of the Government

Whenever this Agreement imposes obligations on the competent authorities, the ultimate responsibility for the fulfilment of such obligations shall rest with the Government.

[Article 50 (41)]

[Interpretation of the Agreement]

[Deleted]

Article 48* (51)

Special agreement relating to the Enterprise

The provisions of this Agreement relating to the Enterprise may be supplemented by a special agreement to be concluded between the Enterprise and the Government in accordance with Annex IV, article 13, paragraph 1, of the Convention.

Article 49* (52)

Settlement of disputes

1. The Authority shall make suitable provisions for the proper settlement of:

(a) Disputes arising out of contracts, or disputes of a private law character to which the Authority is a party;

(b) Disputes involving an official of the Authority or any person who by reason of his official position enjoys immunity, if such immunity has not been waived.

2. Any dispute between the Authority and the competent authorities concerning the interpretation or application of this Agreement or of any supplementary agreement, or any question affecting the Headquarters or the relationship between the Authority and the Government which is not settled by consultation, negotiation or other agreed mode of settlement within three months following such a request by one of the parties to the dispute, shall be referred, at the request of either party to the dispute, for a final and binding decision to a panel of three arbitrators: one to be nominated by the Secretary-General, one to be nominated by the Government. If either or both of the nominations are not made within three months following the request for arbitration, the President of the International Tribunal for the Law of the Sea shall proceed to make the appointment. The third arbitrator, who shall be the chairman of the panel, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the nomination or appointment of the first two arbitrators, such third arbitrator shall be chosen by the President of the International Tribunal for the Law of the Sea at the request of the Authority or the Government.

Article 50* (53)

Application of the Agreement

This Agreement shall apply irrespective of whether the Government maintains diplomatic relations with a State Party or an observer State. It shall be applied to all persons entitled to privileges and immunities under this Agreement, regardless of their nationality and irrespective of whether their State grants a similar privilege or immunity to diplomatic agents or nationals of Jamaica.

Article 51* (54)

Application of the Protocol

The Authority shall enjoy such other privileges and immunities as provided for in the Protocol.

Article 52* (55)

Relationship between the Agreement and the Protocol

The provisions of this Agreement shall be complementary to the provisions of the Protocol. In so far as any provision of this Agreement and any provisions of the Protocol relate to the same subject-matter, the two provisions shall, wherever possible, be treated as complementary, so that both provisions shall be applicable and neither shall narrow the effect of the other; but in any case of conflict, the provisions of this Agreement shall prevail.

Article 53* (56)

Supplementary agreements

The Authority and the Government may enter into such supplementary agreements as may be necessary.

Article 54* (57)

Amendments

Consultations with respect to amendments to this Agreement shall be entered into at the request of either party, and such amendments shall be made by mutual consent.

Article 55* (58)

Termination of the Agreement

This Agreement shall cease to be in force by mutual consent of the Authority and the Government, except for such provisions as may be applicable in connection with the orderly termination of the operations of the Authority at its Headquarters in Jamaica and the disposal of its property therein.

Article 56* (59)

Final provisions

This Agreement shall enter into force upon its signature.

DONE at _____ this _____ day of _____, in two original copies, in English.

/...

Annex

The area referred to in article 2, paragraph 2, of this Agreement consists of the land bounded by ...

LOS/PCN/WP.49/Rev.2
28 July 1992

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEABED AUTHORITY AND
FOR THE INTERNATIONAL TRIBUNAL FOR
THE LAW OF THE SEA
New York, 10-21 August 1992

FINAL DRAFT PROTOCOL ON THE PRIVILEGES AND IMMUNITIES OF THE INTERNATIONAL SEABED AUTHORITY

Working paper by the Secretariat

Whereas the United Nations Convention on the Law of the Sea provides for the establishment of the International Seabed Authority;*

Whereas article 176 of the United Nations Convention on the Law of the Sea provides that the Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes;

Whereas article 177 of the United Nations Convention on the Law of the Sea provides that the Authority shall enjoy in the territory of each State Party such privileges and immunities as are necessary for the fulfilment of its purposes;

Recognizing that, in accordance with article 182 of the United Nations Convention on the Law of the Sea, representatives of States Parties and officials of the Authority shall similarly enjoy in the territory of each State Party such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Authority;

Consequently the Assembly, by a resolution adopted on the _____, approved the following Protocol on the Privileges and Immunities of the International Seabed Authority and proposed it for accession by each State Party.

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* Articles or parts thereof indicated by asterisks have been provisionally adopted.

Article 1*

Use of terms

For the purposes of this Protocol:

(a) "Convention" means the United Nations Convention on the Law of the Sea;

(b) "Protocol" means the Protocol on the Privileges and Immunities of the International Seabed Authority;

(c) "Authority" means the International Seabed Authority as provided for in the Convention;

(d) "States Parties" has the same meaning as defined in article 1 of the Convention;

(e) "Acceding State" means a State Party that is a Party to this Protocol;

(f) "Secretary-General" means the Secretary-General of the International Seabed Authority or his authorized representative;

(g) "Officials of the Authority" means the Secretary-General and all members of the staff of the Authority, including employees of the Enterprise, except those who are locally recruited and assigned to hourly rates;

(h) "Enterprise" means the Enterprise, the organ of the Authority as provided for in the Convention;

(i) "Director-General" means the Director-General of the Enterprise;

(j) "Representatives of Member States" means delegates, deputy delegates, advisers and any other members of delegations;

(k) "Observer State" means a State which enjoys observer status with the Authority;

(l) "Representatives of observer States" means delegates, deputy delegates, advisers and any other members of delegations;

(m) "Experts" means experts performing missions for the Authority;

(n) "Archives" includes records and correspondence, documents, manuscripts, maps, still and moving pictures, films and sound recordings belonging to or held by the Authority.

Article 2*

General provision

Without prejudice to the provisions of the Convention, each acceding State shall accord to the Authority and its organs, the representatives of acceding States, of States Parties and of observer States, officials of the Authority and experts such privileges and immunities as specified in this Protocol.

Article 3*

Legal personality and capacity of the Authority

The Authority shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purposes in accordance with the Convention; consequently it has, in particular, the capacity: 1/

(a) To contract;

(b) To acquire, lease, hold and dispose of immovable and movable property;

(c) To be a party to legal proceedings.

Article 4*

Inviolability of the premises of the Authority

The premises of the Authority shall be inviolable.

Article 5*

Immunity and exemptions of the Authority, its property and assets

1. The Authority, its property and assets, shall enjoy immunity from legal process except to the extent that the Authority expressly waives this immunity in a particular case. 2/ It is, however, understood that no waiver of immunity shall extend to any measure of execution.

1/ Article 176.

2/ Article 178.

2. The property and assets of the Authority, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action. 3/

3. The property and assets of the Authority shall be exempt from restrictions, regulations, controls and moratoria of any nature. 4/

Article 6*

Inviolability of archives

The archives of the Authority, wherever located, shall be inviolable. 5/

Article 7*

Financial facilities of the Authority

1. Without being subject to any financial controls, regulations or moratoria of any kind, the Authority may freely:

(a) Purchase any currencies through authorized channels and hold and dispose of them;

(b) Hold funds, securities, gold or currency of any kind and operate accounts in any currency;

(c) Transfer its funds, securities, gold or currency from one country to another or within any country and convert any currency held by it into any other currency.

2. The Authority shall, in exercising its rights under paragraph 1 of this article, pay due regard to any representations made by the Government of any Member State in so far as effect can be given to such representations without detriment to the interests of the Authority.

3/ Article 179.

4/ Article 180.

5/ Article 181 (1).

Article 8*

Exemption from taxes and customs duties

1. Within the scope of its official activities, the Authority, its assets and property, its income, and its operations and transactions, authorized by the Convention, shall be exempt from all direct taxation, and goods and publications imported or exported for its official use shall be exempt from all customs duties, prohibitions and restrictions. The Authority shall not claim exemption from taxes which are no more than charges for services rendered. 6/

2. When purchases of goods or services of substantial value necessary for the official activities of the Authority are made by or on behalf of the Authority, and when the price of such goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by Member States to grant exemption from such taxes or duties or provide for their reimbursement.

3. Goods imported or purchased under an exemption provided for in this article shall not be sold or otherwise disposed of in the territory of the Member State which granted the exemption, except under conditions agreed with that Member State. 7/

Article 9*

Communications facilities

1. For the purposes of its official communications, the Authority shall enjoy as far as is compatible with international agreements, regulations and arrangements in the territory of each Member State treatment at least as favourable as that which is accorded to international organizations in the matter, inter alia, of priorities, rates and taxes applicable to mail and different forms of telecommunications.

2. No censorship shall be applied to the official correspondence and other official communications of the Authority.

3. The Authority shall have the right to use codes and to dispatch and receive its correspondence and other official communications by courier or in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

6/ Article 183 (1).

7/ Article 183 (2).

4. Nothing in this article shall be construed to preclude the adoption of appropriate security precautions to be determined by agreement between a Member State and the Authority.

Article 10*

Legal capacity of the Enterprise

The Enterprise shall, within the framework of the international legal personality of the Authority, have such legal capacity, in accordance with the Convention, as is necessary for the exercise of its functions and the fulfilment of its purposes and, in particular, the capacity:

(a) To enter into contracts, joint arrangements or other arrangements, including agreements with States and international organizations;

(b) To acquire, lease, hold and dispose of immovable and movable property;

(c) To be a party to legal proceedings. 8/

Article 11*

Position of the Enterprise with regard to judicial process

1. Actions may be brought against the Enterprise only in a court of competent jurisdiction in the territory of a Member State in which the Enterprise:

(a) Has an office or facility;

(b) Has appointed an agent for the purpose of accepting service or notice of process;

(c) Has entered into a contract for goods or services;

(d) Has issued securities; or

(e) Is otherwise engaged in commercial activity. 9/

8/ Annex IV, article 13 (2).

9/ Annex IV, article 13 (3) (a).

2. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from all forms of seizure, attachment or execution before the delivery of final judgement against the Enterprise. 10/

Article 12*

Immunity of the property and assets of the Enterprise

1. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be immune from requisition, confiscation, expropriation or any other form of seizure by executive or legislative action. 11/

2. The property and assets of the Enterprise, wherever located and by whomsoever held, shall be free from discriminatory restrictions, regulations, controls and moratoria of any nature. 12/

Article 13* (14) 13/

Rights, privileges and immunities of the Enterprise

1. Member States shall ensure that the Enterprise enjoys all rights, privileges and immunities accorded by them to entities conducting commercial activities in their territories. These rights, privileges and immunities shall be accorded to the Enterprise on no less favourable a basis than that on which they are accorded to entities engaged in similar commercial activities. If special privileges are provided by Member States for developing States or their commercial entities, the Enterprise shall enjoy those privileges on a similarly preferential basis. 14/

2. Member States may provide special incentives, rights, privileges and immunities to the Enterprise without the obligation to provide such incentives, rights, privileges and immunities to other commercial entities. 15/

10/ Annex IV, article 13 (3) (b).

11/ Annex IV, article 13 (4) (a).

12/ Annex IV, article 13 (4) (b).

13/ The numbers in parentheses indicate the place of the article in document LOS/PCN/WP.49.

14/ Annex IV, article 13 (4) (d).

15/ Annex IV, article 13 (4) (e).

Article 14* (15)

Exemption from direct and indirect taxation

The Enterprise and the Member States in which its offices and facilities are located shall negotiate special agreements concerning the exemption of the Enterprise from direct and indirect taxation. 16/

Article 15* (16)

Financial facilities for the Enterprise

1. The Enterprise shall have the power to borrow funds and to furnish such collateral or other security as it may determine. Before making a public sale of its obligations in the financial markets or currency of a Member State, the Enterprise shall obtain the approval of that Member State. 17/

2. Member States shall make every reasonable effort to support applications by the Enterprise for loans on capital markets and from international financial institutions. 18/

3. Except as provided in paragraph 1 of this article, Member States shall not maintain or impose restrictions on the holding, use or exchange of the funds made available to the Enterprise. 19/

Article 16* (17)

Waiver of immunity by the Enterprise

The Enterprise may waive any of the privileges and immunities conferred under this Protocol or in special agreements provided for in article 27 to such extent and upon such conditions as it may determine. 20/

16/ Annex IV, article 13 (5).

17/ Annex IV, article 11 (2) (a).

18/ Annex IV, article 11 (2) (b).

19/ Annex IV, article 11 (3) (g).

20/ Annex IV, article 13 (7).

Article 17* (18)

Privileges and immunities of the representatives of Member States and of observer States

1. Representatives of acceding States, of States parties and of observer States attending meetings convened by the Authority, shall, while exercising their functions and during their journeys to and from the place of meeting, enjoy in the territory of each acceding State the following privileges and immunities:

(a) Immunity from legal process in respect of words spoken or written, and all acts performed by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned may have ceased to exercise their functions;

(b) Immunity from personal arrest or detention and the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic agents;

(c) Inviolability of all papers and documents;

(d) The right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) Exemption with respect to themselves, their spouses and dependent members of their families from immigration restrictions, alien registration requirements and national service obligations;

(f) The same privileges and facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(g) The same protection and repatriation facilities with respect to themselves, their spouses and dependent members of their families as are accorded to diplomatic agents in time of international crises;

(h) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic agents enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

2. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Member States attending the meetings of the Authority are present in a Member State for the discharge of their duties shall not be considered as periods of residence.

3. Privileges and immunities are accorded to the representatives of Member States and of observer States, not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their

functions in connection with the Authority. Consequently, a Member State or an observer State not only has the right but is under a duty to waive the immunity of its representative in any case where, in the opinion of that State, the immunity would impede the course of justice, and where it can be waived without prejudice to the purpose for which the immunity is accorded.

4. The provisions of paragraphs 1 and 2 are not applicable as between a representative and the authorities of the Member State or of the observer State of which he is a national or of which he is or has been a representative.

Article 18* (19.1, 2)

Privileges and immunities of officials of the Authority

1. The Secretary-General will specify the categories of officials to which the provisions of this article shall apply. He shall submit those categories to the Assembly. Thereafter the categories shall be communicated to the Governments of all Member States. The names of the officials included in the categories shall from time to time be made known to the Governments of Member States.

2. Officials of the Authority, regardless of their nationality, shall enjoy the following privileges and immunities:

(a) Immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned may have ceased to be officials of the Authority;

(b) Immunity from personal arrest or detention in relation to acts performed by them in their official capacity;

(c) Immunity from inspection and seizure of personal and official baggage, except in cases of flagrante delicto. In such cases the competent authorities shall immediately inform the Secretary-General. Inspections shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the Secretary-General;

(d) Exemption from taxation in respect of the salaries and emoluments paid or any other form of payment made by the Authority;

(e) Immunity from national service obligations;

(f) Exemption with respect to themselves, their spouses and dependent members of their families from immigration restrictions and alien registration requirements;

(g) The same privileges and facilities in respect of foreign exchange, including holding accounts in foreign currencies, as are accorded to members of comparable rank of diplomatic missions;

(h) The same protection and repatriation facilities with respect to themselves, their spouses and dependent members of their families as are accorded to diplomatic agents in time of international crises;

(i) The right to import free of duty their furniture, household and personal effects at the time of first taking up their post in the country in question and, after the conclusion of their mission, to re-export the same free of duty to their country of domicile.

Article 19* (19.4)

Additional privileges and immunities of the Secretary-General and other senior officials of the Authority

In addition to the privileges and immunities specified in article 18, the Secretary-General, the Director-General and their deputies, their spouses and dependent members of their families shall be accorded the same privileges and immunities as are accorded to diplomatic agents in accordance with international law.

Article 20* (19.3)

Waiver of immunity of the officials of the Authority

Privileges and immunities are granted to the officials of the Authority in the interest of the Authority and not for their own personal benefit. The Secretary-General shall have the right and duty to waive the immunity granted to an official of the Authority whenever, in his opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the Authority. In the case of the Secretary-General and the Director-General, the Council shall have the right to waive the immunity.

Article 21* (20)

Privileges and immunities of experts

1. Experts, other than the officials of the Authority, while performing the functions assigned to them by the Authority or in the course of their travel to take up these functions or perform these duties, shall enjoy the following facilities, privileges and immunities that are necessary for the effective exercise of their duties:

(a) Immunity from legal process in respect of words spoken or written, and all acts performed by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned may have ceased to exercise their functions with the Authority;

(b) Immunity from personal arrest or detention in relation to acts performed by them in their official capacity;

(c) Immunity from inspection and seizure of personal and official baggage, except in cases of flagrante delicto. In such cases the competent authorities shall immediately inform the Secretary-General. Inspection shall in the case of personal baggage be conducted only in the presence of the official concerned or his authorized representative, and in the case of official baggage, in the presence of the Secretary-General;

(d) Exemption from taxation in respect of the salaries and emoluments paid or any other form of payment made by the Authority;

(e) Inviolability of all papers and documents;

(f) The right, for the purposes of all communications with the Authority, to use codes and to dispatch or receive papers, correspondence or other official material by courier or in sealed bags;

(g) Exemption with respect to themselves, their spouses and dependent members of their families from immigration restrictions, alien registration requirements and national service obligations;

(h) The same protection and repatriation facilities with respect to themselves, their spouses and dependent members of their families as are accorded to diplomatic agents in time of international crises;

(i) The same privileges and facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. Privileges and immunities are granted to experts in the interests of the Authority and not for their own personal benefit. The Secretary-General shall have the right and duty to waive the immunity granted to an expert whenever, in his opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the Authority.

Article 22*

Cooperation with the competent authorities

The Authority shall cooperate at all times with the competent authorities of Member States to facilitate the proper administration of justice, secure the observance of police regulations and avoid the occurrence of any abuse in

connection with the facilities, privileges and immunities mentioned in this Protocol.

Article 23*

Respect for the laws and regulations of Member States

Without prejudice to the privileges and immunities accorded by this Protocol, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of Member States. They also have the duty not to interfere in the internal affairs of Member States.

Article 24* (23)

Abuse of privileges or immunities

1. If any Member State considers that there has been an abuse of a privilege or immunity conferred by this Protocol, consultations shall be held between that State and the Secretary-General to determine whether any such abuse has occurred and, if so, to attempt to ensure that no repetition occurs. If such consultations fail to achieve a result satisfactory to that State and the Secretary-General, the question whether an abuse of a privilege or immunity has occurred shall be settled by a procedure in accordance with article 29.

2. Representatives of Member States and of observer States attending meetings convened by the Authority, while exercising their functions and during their journeys to and from the Authority, shall not be required by the territorial authorities to leave the country in which they are performing their functions on account of any activities by them in their official capacity. In the case, however, of abuse of privileges of residence committed by any such person in activities in that country outside his official functions, he may be required to leave by the Government of that country, provided that:

(a) Representatives of Member States and of observer States or persons who are entitled to the immunities provided in article 19 shall not be required to leave the country otherwise than in accordance with the diplomatic procedure applicable to diplomatic agents accredited to that country;

(b) In the case of an official of the Authority to whom article 19 is not applicable, no order to leave the country shall be issued by the territorial authorities other than with the approval of the Foreign Minister of the country in question, and such approval shall be given only after consultation with the Secretary-General; and, if expulsion proceedings are taken against an official of the Authority, the Secretary-General shall have the right to appear in such proceedings on behalf of the person against whom they are instituted.

Article 25* (24)

Laissez-passer+

1. Officials of the Authority shall be entitled to use laissez-passer.

2. Each Member State shall recognize and accept laissez-passer issued to officials of the Authority as valid travel documents.

3. Applications for visas, where required, from the officials of the Authority holding laissez-passer, when accompanied by a certificate that they are travelling on the business of the Authority, shall be dealt with as speedily as possible. In addition such persons shall be granted facilities for speedy travel.

4. Similar facilities to those specified in paragraph 3 shall be accorded to experts and other persons who, though not holders of laissez-passer, have a certificate that they are travelling on the business of the Authority.

Article 26* (25)

Flag and emblem

The Authority shall be entitled to display its flag and emblem in its premises and on vehicles used for official purposes.

Article 27* (26)

Special agreements applicable to the Enterprise

The provisions of this Protocol applicable to the Enterprise may be supplemented by special agreements concluded between the Enterprise and the Member States in accordance with Annex IV, article 13, paragraph 1, of the Convention.

Article 28* (28, 29)

Supplementary agreements

This Protocol shall in no way limit or prejudice the privileges and immunities which have been, or may hereafter be, accorded to the Authority by any State by reason of the location in the territory of the State of the

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+ It should be noted that the relationship between the Authority and the United Nations has not yet been considered.

Authority's Headquarters or regional centres or offices. This Protocol shall not be deemed to prevent the conclusion between the Authority and any Member State of supplementary agreements.

Article 29 (29, 30)

Settlement of disputes

1. The Authority shall make suitable provisions for the proper settlement of:

(a) Disputes arising out of contracts, or other disputes of a private character to which the Authority is a party;

(b) Disputes involving an official of the Authority or any person who by reason of his official position enjoys immunity, if such immunity has not been waived.

2. Any dispute between the Authority and a Member State concerning the interpretation or application of the Protocol or any supplementary agreement or any difference arising between the Authority on the one hand and a Member State on the other hand, which is not settled by consultation, negotiation or other agreed mode of settlement within three months following such a request by one of the parties to the dispute, shall be referred, at the request of either party to the dispute, for a final and binding decision to a panel of three arbitrators: one to be nominated by the Secretary-General, one to be nominated by the Member State. If either or both of the nominations are not made within three months following the request for arbitration, the President of the International Tribunal for the Law of the Sea shall proceed to make the appointment. The third arbitrator, who shall be the chairman of the parel, shall be chosen by the first two arbitrators. Should the first two arbitrators fail to agree upon the appointment of the third arbitrator within three months following the nomination or appointment of the first two arbitrators, such third arbitrator shall be chosen by the President of the International Tribunal for the Law of the Sea at the request of the Authority or the Member State.

Article 30* (30, 31)

Final provisions

1. This Protocol shall be submitted to every State Party for accession.

2. Accession shall be effected by deposit of an instrument with the Secretary-General of the United Nations who shall promptly transmit a copy thereof to the Secretary-General. The Protocol shall come into force as regards each State Party on the date of deposit of each instrument of accession.

3. The Secretary-General of the United Nations shall inform all States Parties of the deposit of each instrument of accession.

4. It is understood that, when an instrument of accession is deposited on behalf of any State Party, the State Party shall be in a position under its own law to give effect to the terms of the Protocol.

5. This Protocol shall continue in force as between the Authority and every State Party which has deposited an instrument of accession for as long as that Member State remains a State Party to the United Nations Convention on the Law of the Sea, or until a revised Protocol has been approved by a meeting of States Parties and that Member State has become a party to the revised Protocol.

6. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

LOS/PCN/WP.50/Rev.3
2 February 1993

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE INTERNATIONAL SEABED AUTHORITY AND FOR THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA
Eleventh session
Kingston, Jamaica
22 March-2 April 1993

FINAL DRAFT AGREEMENT CONCERNING THE RELATIONSHIP BETWEEN THE UNITED NATIONS AND THE INTERNATIONAL SEABED AUTHORITY

Working paper by the Secretariat

The United Nations and the International Seabed Authority,

Bearing in mind that the General Assembly of the United Nations in its resolution 3067 (XXVIII) of 16 November 1973 decided to convene the Third United Nations Conference on the Law of the Sea for the adoption of a convention dealing with all matters relating to the law of the sea and that the Conference adopted the United Nations Convention on the Law of the Sea, which inter alia establishes the International Seabed Authority,

Desiring to make provision for a system of mutually beneficial relationship to facilitate the discharge of the respective responsibilities of both organizations,

Taking into account for this purpose the provisions of the Charter of the United Nations and the provisions of the United Nations Convention on the Law of the Sea,

Have agreed as follows:

/...

Article 1

Purpose of the Agreement

This Agreement, which is entered into by the United Nations and the International Seabed Authority (hereinafter referred to as "the Authority"), pursuant to the provisions of the Charter of the United Nations (hereinafter referred to as "the Charter") and the United Nations Convention on the Law of the Sea (hereinafter referred to as "the Convention") respectively, is intended to define the terms on which the United Nations and the Authority shall be brought into relationship.

Article 2

General

1. The United Nations recognizes the Authority as the organization, provided for in the Convention, through which States Parties to the Convention shall organize and control activities in the seabed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as "the Area"), particularly with a view to administering the resources of the Area.

2. The United Nations recognizes that the Authority, by virtue of the Convention, shall function as an autonomous international organization in the working relationship with the United Nations established by this Agreement.

3. The Authority undertakes to conduct its activities, in accordance with the purposes and principles of the Charter, to promote peace and international cooperation and in conformity with the policies of the United Nations furthering these purposes and principles.

Article 3

Cooperation and coordination

1. The United Nations and the Authority agree that, with a view to facilitating the effective exercise of their responsibilities, they will cooperate closely with each other and consult each other on matters of mutual interest, including cooperation in the field of public information.

2. The United Nations and the Authority recognize the necessity of achieving effective coordination of the activities of the Authority and of the United Nations and of avoiding unnecessary duplication of their activities and services.

Article 4

Assistance to the Security Council

1. The Authority shall cooperate with the Security Council by providing to it at its request such information and assistance as may be required in the exercise of its responsibilities for the maintenance or restoration of international peace and security. In case confidential information is provided, the Security Council shall preserve its confidential character.

2. At the invitation of the Security Council, the Secretary-General of the Authority may attend its meetings to supply it with information or give it other assistance with regard to matters within the competence of the Authority.

Article 5

International Court of Justice

The Authority agrees, subject to the provisions of article 9, paragraph 2, relating to the safeguarding of confidential material, data and information, to provide any information which may be requested by the International Court of Justice in pursuance of Article 34 of the Statute of the Court.

Article 6

Trust, Non-Self-Governing and other Territories

The Authority agrees to cooperate within the field of its competence with the United Nations in giving effect to the principles and obligations set forth in Chapters XI, XII and XIII of the Charter and other internationally recognized principles and obligations regarding colonial countries and peoples, with regard to matters affecting the well-being and development of the peoples of the Trust, Non-Self-Governing and other Territories.

Article 7

Reciprocal representation

1. Representatives of the United Nations shall be entitled to attend, and to participate, without the right to vote, in the meetings of the organs of the Authority and their subsidiary organs, in accordance with their rules of procedure, if matters of interest to the United Nations are under consideration. Written statements submitted by the United Nations shall be distributed by the secretariat of the Authority to its members, in accordance with the rules of procedure of the organs of the Authority and of their subsidiary organs.

2. Representatives of the Authority shall be entitled to attend, and to participate, without the right to vote and in accordance with the relevant rules of procedure, in the meetings of the Economic and Social Council, of the Trusteeship Council, of the Main Committees of the General Assembly, of the Governing Council of the United Nations Development Programme, of the Governing Council of the United Nations Environment Programme, of the conferences and meetings held under the auspices of the United Nations, and, as appropriate, of their subsidiary organs, with respect to items of the agenda relating to matters within the responsibilities of the Authority as well as other matters of mutual interest. Written statements presented by the Authority shall be distributed by the Secretariat of the United Nations to the members of the above-mentioned bodies, in accordance with the relevant rules of procedure.

3. Representatives of the Authority shall be entitled to attend, for the purposes of consultations, meetings of the General Assembly of the United Nations when matters as defined in paragraph 2 are under consideration.

Article 8

Proposal of agenda items

1. After such preliminary consultations as may be necessary, the United Nations may propose items for consideration by the the Authority. In such cases, the United Nations shall notify the Secretary-General of the Authority of the item or items concerned, and the Secretary-General of the Authority shall propose any such item or items for inclusion in the provisional agenda of the Assembly or the Council of the Authority.

2. After such preliminary consultations as may be necessary, the Authority may propose items for consideration by the United Nations. In such cases, the Authority shall notify the Secretary-General of the United Nations of the item or items concerned, and the Secretary-General of the United Nations shall propose such item or items to the General Assembly or, as appropriate and in accordance with the relevant rules of procedure, of other organs or bodies of the United Nations.

Article 9

Exchange of information, data and documents

1. The United Nations and the Authority shall, subject to paragraph 2 of this article, arrange for the exchange of information, publications and reports of mutual interest and the furnishing of special reports and studies and information upon request. The submission of such reports, studies and information shall be subject to conditions set forth in article 14.

2. The United Nations and the Authority are subject to necessary limitations for the safeguarding of confidential material, data and information furnished to them by their members or others. Subject to article 4, paragraph 1, nothing in this Agreement shall be construed to require either the United Nations or the Authority to furnish any material, data and information the furnishing of which could, in its judgement, constitute a violation of the confidence of any of its members or anyone from whom it shall have received such information, or which would otherwise interfere with the orderly conduct of its operation.

Article 10

Statistical services

1. The United Nations and the Authority agree to strive for the maximum cooperation, the avoidance of unnecessary duplication between them and the most efficient use of their technical personnel in their respective collection, analysis, publication and dissemination of statistical information. They agree to combine their efforts to secure the greatest possible usefulness and utilization of statistical information and to minimize the burden placed upon Governments and other organizations from which such information may be collected.

2. The Authority recognizes the United Nations as the central agency for the collection, analysis, publication, standardization, improvement and dissemination of statistics serving the general purposes of international organizations.

3. The United Nations recognizes the Authority as an appropriate organization for the collection, analysis, publication, standardization, improvement and dissemination of statistics within its sphere, without prejudice to the right of the United Nations to concern itself with such statistics in so far as it may be essential for its own purposes or for the improvement of statistics throughout the world.

4. The United Nations shall, in consultation with the Authority, develop administrative instruments and procedures through which effective statistical cooperation may be secured between the United Nations and the Authority.

5. It is agreed that data supplied to the Authority for incorporation in its basic statistical series or special reports should, so far as is practicable, be made available to the United Nations upon request.

6. It is agreed that data supplied to the United Nations for incorporation in its basic statistical series or special reports should, so far as is practicable, be made available to the Authority upon request.

Article 11

Technical assistance

The United Nations and the Authority undertake to work together in the provision of technical assistance in the fields of marine scientific research in the Area, transfer of technology and the prevention, reduction and control of pollution of the marine environment from activities in the Area. In particular, they agree to take such measures as may be required to achieve effective coordination within the framework of existing coordinating machinery in the field of technical assistance, taking into account the respective roles and responsibilities of the United Nations and the Authority under their constitutive instruments, as well as those of other organizations participating in technical assistance activities.

Article 12

Personnel arrangements

1. The United Nations and the Authority agree to develop, in the interests of uniform standards of international employment and to the extent feasible, common personnel standards, methods and arrangements designed to avoid unjustified differences in terms and conditions of employment. For this purpose the Authority agrees to accept the statute of the International Civil Service Commission.

2. The United Nations and the Authority agree to cooperate to the fullest extent possible in achieving these ends and in particular they agree:

(a) To consult together from time to time concerning matters of mutual interest relating to the terms and conditions of employment of the officers and staff, with a view to securing as much uniformity in these matters as may be feasible;

(b) To cooperate in the interchange of personnel when desirable, on a temporary or a permanent basis, making due provision for the retention of seniority and pension rights;

(c) To cooperate in the establishment and operation of suitable machinery for the settlement of disputes arising in connection with the employment of personnel and related matters.

3. Upon the approval of the General Assembly, the Authority shall participate in the United Nations Joint Staff Pension Fund in accordance with the Regulations of the Fund and shall accept the jurisdiction of the United Nations Administrative Tribunal in matters involving applications alleging non-observance of those Regulations.

4. The United Nations and the Authority agree to cooperate fully in ensuring that, as appropriate, all members of the staff of the United Nations assigned to the Authority should be offered appointments by the Authority that preserve their acquired rights and contractual status; and that all members of the staff of the Authority assigned to the United Nations should be offered appointments by the United Nations that preserve their acquired rights and contractual status.

5. The terms and conditions under which any facilities or services of the Authority or the United Nations in connection with the matters referred to in this article are to be extended to the other shall, where necessary, be the subject of supplementary agreements concluded for this purpose.

Article 13

Budgetary and financial matters

The Authority recognizes the desirability of establishing close budgetary and financial cooperation with the United Nations aimed at benefiting from the experience of the United Nations in this field.

Article 14

Financing of special services

The costs and expenses to be incurred for the provision of services pursuant to this Agreement shall be agreed upon in an equitable manner between the Authority and the United Nations.

Article 15

United Nations laissez-passer

Officials of the Authority shall be entitled, in accordance with such special arrangements as may be concluded between the Secretary-General of the United Nations and the Secretary-General of the Authority, to use the laissez-passer of the United Nations as a valid travel document with respect to States parties to the Protocol on the Privileges and Immunities of the Authority. The above is without prejudice to the right of the Authority to issue its own travel documents.

Article 16

Implementation of the Agreement

The Secretary-General of the United Nations and the Secretary-General of the Authority may enter into such supplementary arrangements for the implementation of this Agreement as may be found desirable in the light of the operating experience of the United Nations and of the Authority.

Article 17

Amendments

This Agreement may be amended by agreement between the United Nations and the Authority. Any such amendment agreed upon shall enter into force on its approval by the competent organs of the United Nations and of the Authority.

Article 18

Entry into force

This Agreement shall enter into force on its approval by the competent organs of the United Nations and of the Authority.

LOS/PCN/WP.51
10 August 1990

ORIGINAL: ENGLISH

PREPARATORY COMMISSION FOR THE
INTERNATIONAL SEA-BED AUTHORITY
AND FOR THE INTERNATIONAL TRIBUNAL
FOR THE LAW OF THE SEA
New York, 13-31 August 1990

ADMINISTRATIVE ARRANGEMENTS, STRUCTURE AND FINANCIAL IMPLICATIONS OF THE INTERNATIONAL SEA-BED AUTHORITY

Background paper by the Secretariat

INTRODUCTION

1. At the conclusion of the eighth session of the Preparatory Commission, the Chairman referred to a study being prepared by the Secretariat "on the potential financial implications for States Parties to the United Nations Convention on the Law of the Sea, taking specially into account the necessity for economy, and for minimizing the financial burden of States Parties, consistent with the current situation" (LOS/PCN/L.82/Rev.1, para. 45).

2. The Convention sets out functions which are to be carried out by two new institutions - the International Sea-Bed Authority and the International Tribunal for the Law of the Sea - and by the United Nations. Within the context of the overall institutional arrangements provided for in the Convention, the Authority is to administer the resources of the Area; the Tribunal is the central judicial organ for the resolution of disputes under the Convention; and the United Nations is entrusted with a wide range of important responsibilities. Under its programme on the Law of the Sea and Ocean Affairs, the United Nations is, at present, carrying out a number of functions, and will continue to carry out similar functions which include promoting widespread acceptance of the Convention; facilitating its uniform and consistent application; assisting States, especially developing States, to formulate and execute national marine policies based on the integrated management framework provided by the Convention, and to realize the full benefits to be derived from the Convention through rational implementation of their rights and duties; and reporting on issues of a general nature that have arisen in respect of the Convention. In the future, the responsibilities of the Secretary-General of

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the United Nations include establishing and servicing the new intergovernmental Commission on the Limits of the Continental Shelf.

3. United Nations. The financial requirements of the United Nations for the fulfilment of the responsibilities of the Secretary-General of the United Nations under the Convention will be met from the regular budget of the United Nations. It may be further stated that these responsibilities were entrusted to the United Nations following the intergovernmental review of a study examining the requirements under the Convention. 1/

4. Tribunal. The recurrent financial implications with regard to the Tribunal have been presented in document LOS/PCN/SCN.4/WP.8, under a certain set of assumptions. Under the guidance of Special Commission 4, various alternative sets of assumptions have been obtained, and the corresponding financial implications are presented in documents SCN.4/WP.8/Add.1 and 2.

5. Authority. The present paper deals with the financial implications with regard to the Authority. The financial implications for States Parties to the Convention are to be viewed within the overall institutional arrangements provided for in the Convention.

I. APPROACHES TO THE STUDY OF FINANCIAL IMPLICATIONS WITH REGARD TO THE AUTHORITY

6. The present study of the potential financial implications with regard to the Authority has been prepared by the Secretariat with the co-operation of the relevant departments within the Organization.

A. Guidelines

7. In conducting the study the Secretariat first sought guidance from the deliberations of the Preparatory Commission. The Chairman's statement, referred to above, provided three basic guidelines: (a) the necessity for economy, (b) the necessity for minimizing the financial burden of States Parties, and (c) consistency with the current situation. In fact, the need for economy, the need to minimize the financial burden of States Parties and the imperative of taking into account "the likely developments in deep sea-bed mining" have been emphasized since the commencement of the functioning of the Preparatory Commission (see the statements of the first Chairman of the Preparatory Commission, Mr. Joseph S. Warioba, at the conclusion of the second and the third sessions, in LOS/PCN/L.6, para. 17, and LOS/PCN/L.19, p. 2). These guidelines were elaborated upon in the most succinct manner by the Chairman of the Group of 77, Mr. Mumba S. Kapumpa, in his statement made in the plenary session of the Preparatory Commission at the end of the 1989 New York meeting. He stated, "The Group of 77 is desirous of establishing an Authority which would be efficient and cost-effective, the size of which would be no larger or smaller than is required to enable the Authority to carry out its functions efficiently" (emphasis added). 2/

In the same statement he also emphasized that the size should not be "unrelated to the activities which the Authority is legitimately required to perform under the Convention, from time to time" (emphasis added). There was a consensus among all regional groups and interest groups with regard to these guidelines.

B. Functions the Authority is required to perform from time to time

8. The Secretariat next attempted to obtain an idea about the requisite functions of the Authority from time to time. The functions of the Authority are directly dependent on the status of the sea-bed mining-related activities, and these functions, in turn, determine the size and structure of the Authority. It is well known that any newly emerging industry goes through an evolutionary development process before it becomes an established industry. In the case of the sea-bed mining industry, certain significant additional factors come into play, which have extremely important impacts on the nature and length of the evolutionary process: (a) the slowdown of the rate of growth of demand for the metals contained in polymetallic nodules during the 1980s, and the existing forecasts pointing to the fact that no appreciable rise in price is to be expected in the 1990s and even beyond; (b) economic assessments of the experimental technologies that had been developed and tested for mining and processing small amounts of nodules, demonstrating that these technologies may not be cost-effective for large-scale mining operations, and the consequent need to carry out considerable further research and development work to develop cost-effective mining and processing technologies; (c) in view of the uneven distribution of nodules with regard to abundance, metal content and microtopography, the need to delineate, in the requisite degree of detail, mine sites composed of areas with nodules of sufficient abundance and metal content and with acceptable microtopography, which calls for further exploration work; (d) the need for further research to develop more accurate and efficient exploration technology, without which the delineation of mine sites would be far from precise; and (e) the fact that all this additional work requires a considerable length of time and a commitment of large amounts of funds (on the order of $US 200-400 million), under circumstances where there are no guarantees of favourable outcomes, and where the intrinsic uncertainties with regard to geological and market factors and, most significantly, with regard to technology to be applied in a completely new, "frontier" area, are to be reckoned with.

9. It is evident that after the establishment of the Authority, presumably during the first part of the current decade, for a number of years it would be functioning in a "feasibility determination" period. If the outcomes of activities during the feasibility determination period are favourable, a "pre-production plant construction" period will follow. The Authority will deal with "production" period matters only after these two periods.

10. It is also extremely important to bear in mind that the feasibility determination activities themselves are not proceeding at a "normal" pace; for reasons mentioned in paragraph 8 above, as well as owing to other factors including environmental considerations, these activities are being carried out at a slowed-down pace.

11. Under these circumstances, in tandem with the evolutionary process of the development of the sea-bed mining industry, the best strategy for developing an efficient and cost-effective Authority, the size of which would be related to the activities which it is "legitimately required to perform under the Convention from time to time", would be to take an evolutionary approach whereby the institution evolves as sea-bed mining industry moves from the slowed-down phase to the "normal" phase of the "feasibility determination" stage, then to the "pre-production" stage and finally to the "production" stage. In each phase, the size of the institution would be no larger or smaller than is required to enable it to carry out its functions efficiently during that phase.

12. The nature and the extent of the work of the Authority during these four phases are quite different, and, more important, the Convention sets out the functions of the Authority in such a manner as to require a very limited extent of work with regard to governance and control of "feasibility determination" activities, moving on to a relatively increased level of work with regard to "pre-production" activities, and finally bringing into play the full set of functions required for the governance and control of "production" period activities. The limited nature and extent of functions could be further modified in the slowed-down phase of the "feasibility determination" activities.

C. Functions of the institution in the initial period

13. In the next step of the study, the Secretariat attempted to obtain an idea of the nature and extent of the specific functions of the institution during the initial period, in the slowed-down phase of the "feasibility determination" stage. The provisions of Part XI and Annexes III and IV of the Convention, as well as Resolutions I and II of the Conference, were thoroughly analysed for this purpose. Also, a careful study of the relevant documents of the Preparatory Commission was undertaken. 3/ These include draft rules of procedure of the various organs of the Authority, draft sea-bed mining code, documents related to the provisional conclusions of Special Commission 1, to the structure and organization of, and transitional arrangements for, the Enterprise, and to the Preparatory Commission Training Programme, reports of the Group of Technical Experts to the General Committee, as well as the reports of the Chairmen of the Preparatory Commission and Special Commissions 1, 2 and 3, respectively.

14. Many of these documents point to the functions of the "full-scale" Authority; however, after careful examination, the functions of the institution during the initial period were identified. Broadly speaking, these functions involve: monitoring and reviewing trends and developments, especially technological and market developments, with regard to determination of feasibility of sea-bed mining; continuing the compilation of requisite data and information related to sea-bed

mining and the metal market, already initiated by the Preparatory Commission; continuing the necessary studies with regard to developing land-based producer States which are likely to suffer adverse effects from future sea-bed production; carrying out background work for the development of a project for the Enterprise; facilitating and monitoring the training programmes being undertaken by the operators; and applying those provisions of the sea-bed mining code that pertain to the initial period.

D. Tasks of the Secretariat of the institution during the initial period, flowing from the above functions

15. The Secretariat of the institution will be called upon to provide the appropriate administrative support for the above functions, which will consist essentially of three categories of tasks:

(a) Substantive backstopping in terms of monitoring of developments, compilation and dissemination of relevant data and information, provision of analyses and of advice, as and when required;

(b) Practical organization, administration and management of the institution (including facilitating and monitoring the training programmes being undertaken by the operators);

(c) Conference servicing.

II. ADMINISTRATIVE ARRANGEMENTS AND STRUCTURE OF THE INITIAL INSTITUTION

A. Structure

"Springboard" approach

16. Given the limited nature and extent of functions of the institution during the "feasibility determination" stage of sea-bed mining, which could be further modified in view of the slowed-down pace of activities in the initial period, and also taking into account the evolutionary process of the development of the institution, the most meaningful way the Secretariat could deal with the matter of the size and structure of the institution in the initial period, which would be "no larger or smaller than is required to enable [it] to carry out its functions efficiently", was to take a so-called "springboard" approach, in which a structure is devised to perform the initial functions, as identified above, that are necessary to be accomplished to provide groundwork for the performance of, and a launching pad from which to embark upon, additional functions, as they are decided on. This approach avoids the cumbersome, confusing and highly speculative exercise of building scenarios, but at the same time, leaves room for building upon, or adding on to, the given structure, as needs and mandates emerge over time.

B. Administrative arrangements

Budgetary provisions

17. The Convention, in articles 171 and 173, specifies that during the initial period the administrative expenses of the Authority shall be met by assessed contributions made by members of the Authority in accordance with an agreed scale of assessment. The scale will be based upon the scale used for the regular budget of the United Nations. This will apply until the Authority has sufficient income from other sources to meet its administrative expenses.

Institutional arrangements: options

18. The structure devised pursuant to the "springboard" approach essentially constitutes a "holding" operation, fulfilling the limited responsibilities consistent with the scaled-down role of the institution, but at the same time awaiting the developments calling for the full-scale role. Given the scaled-down, "holding" nature of the initial institution, the Secretariat carried out intensive research as to the most efficient and cost-effective institutional arrangement during the initial period. An independent institution, self-administered, is an obvious option. However, in view of the fact that considerable economies of scale can be reaped by pooling together the administrative, conference servicing and related substantive tasks of the new institution with those of the United Nations, a conceivable institutional option is that of an independent institution "linked" with the United Nations. In this option, support of the common services could be provided by the United Nations in the areas of administration and conference servicing as well as in related substantive fields, at costs considerably lower than those to be incurred by the new institution if it were to set up and operate those services ab initio. In the present paper, therefore, both the options have been addressed, the former being so-called "self-administered" one and the latter so-called "United Nations-linked" one.

19. It should be emphasized that in respect of the "United Nations-linked" option careful consideration has to be given to the modalities of the arrangement, especially with respect to the budgetary aspects.

III. FINANCIAL IMPLICATIONS

A. Categories of expenditures

20. For the initial institution, under either option of institutional arrangement, three categories of expenditures can be distinguished: (a) recurrent annual expenses (excluding conference servicing); (b) conference servicing expenses; and (c) initial one-time capital outlay.

Project costs of the Enterprise

21. As regards the Enterprise, the costs for the implementation of an operational project will have to be determined at the time when the Authority decides to undertake such a project, at which time it will also have to decide on the

operational strategy and the sources and modalities of the financing for the project. For this reason the present paper does not include the project costs of the Enterprise. With respect to the Governing Board of the Enterprise, the Secretariat studied the suggestions of the Chairman of Special Commission 2, contained in document LOS/PCN/SCN.2/1990/CRP.5, wherein he states: "The discussions over the past several years have not resolved the question as to whether it is desirable and necessary to elect the Governing Board and the Director-General as one of the first actions of the Council and Assembly." Consequently, the present paper does not address the costs related to the Governing Board of the Enterprise, such as remuneration to be paid to the members, servicing of meetings, etc.

B. Recurrent annual expenses

22. Recurrent annual expenses comprise salaries and other benefits to the Secretary-General and to Secretariat staff, costs of certain staff-related items and general operating expenses.

1. Secretary-General

23. Article 166 of the Convention specifies that the Secretary-General shall be the chief administrative officer of the Authority.

24. It would be required that the independent self-administered institution be active in relations with the United Nations and other international organizations. In addition to the tasks related to entering into and administering the agreements with other organizations, the self-administered institution would be involved generally in all areas of international co-operation addressing sea-bed related issues and activities beyond national jurisdiction. It is assumed in the present paper that a Deputy to the Secretary-General would carry out the above tasks and be responsible for Legal and External Relations, and Public Information.

25. In the case of the United Nations-linked institution, the level and scope of top management would necessarily be different, because a considerable degree of support could be obtained from the United Nations in the tasks involving inter-organizational relations, external relations, legal affairs and public information.

2. Staff

26. Except for conference servicing staff, the Professional staff of the institution would be required to perform the substantive "scientific and technical" tasks and the administrative tasks, while the General Service staff would be required to provide support to the Professional staff - both substantive and administrative - and assistance in various matters.

27. Staff costs constitute the major share of the expenses of an international institution. Thus in the present paper extreme care has been taken in estimating staff requirements, bearing in mind the imperative of achieving economy and at the same time ensuring that the institution is able to carry out its functions efficiently.

Professional staff for substantive matters: self-administered institution

28. The functions of the institution during the initial period have been identified above, and the Professional staff would provide substantive backstopping and support for the fulfilment of those functions. The Professional staff would also carry out the responsibilities of Secretary of the organs of the Council/Assembly.

29. During the initial period, the functions identified above relate to five main areas: marine mining with emphasis on technology; marine sciences with emphasis on resource-oriented application and environmental considerations; mineral economics with emphasis on international economics; international law with emphasis on law of the sea; and information management. The identification of these substantive areas is also corroborated, in a general way, by an examination of the fields of expertise of the members of the Economic Planning Commission and the Legal and Technical Commission, as specified in the Convention, as well as through a review of the priority disciplines identified by the Group of Technical Experts to the General Committee. Accordingly, given the limited scope and level of the functions during the initial period, it is assumed in the present paper that five Professional staff members would be required for the institution: one Marine Mining Specialist, one Oceanographer, one Mineral Economist, one Law of the Sea Specialist and one Information Manager. Since monitoring of developments and compilation and processing of information would constitute a major share of the tasks, another Professional would be required as an Information System/Data Base Assistant who would also carry out the tasks of Librarian.

30. Staff "dedicated" to the Enterprise. The work during the initial period with regard to the Enterprise has been identified in some detail in document LOS/PCN/SCN.2/1990/CRP.5. At the outset, one staff member capable of dealing with the background work for sea-bed mining project development, would be required. There would also be a requirement for a staff member who would carry out work to develop an exploration plan for the Enterprise. The operational options for the Enterprise would very likely involve co-operation with other entities, e.g., in the form of joint ventures or joint arrangements. This would lead to a requirement for a specialist in contract law. Thus, it is assumed in this paper that three Professional staff "dedicated" to the Enterprise would be required: a Project Manager/Planner, an Exploration Engineer and a Contract Law Specialist.

31. It should be emphasized that during the initial period, the "scientific and technical" work related to the Enterprise and the data resources needed by the Enterprise are highly interrelated with those of the other organs of the Authority. Thus, the work of the eight Professional staff members, combined together, would serve to fulfil the needs of the Enterprise and the other organs of the Authority. Therefore, each of the eight Professionals should have as much across-the-board experience as possible. They should be working as a closely knit

team emphasizing the interdisciplinary aspects as well as the optimum cross-fertilization of ideas.

Professional staff for substantive matters: United Nations-linked institution

32. The requirements for the Professional staff for the United Nations-linked institution would be similar to those of the self-administered institution, with the exception that in certain areas, such as information management and legal issues related to contracts, support could be provided by the United Nations. Thus, it is assumed in the present paper that two fewer Professional staff would be required for the United Nations-linked institution as compared to the self-administered institution, the two being the Information System/Data Base Assistant and the Contract Law Specialist.

Supplements to the work of the Professional staff

33. In the judgement of the Secretariat, the above Professionals would be capable of covering the work flowing from the functions of the institution during the initial period. Nevertheless, in case the need arises, supplementary sources could be utilized by the institution.

34. Consultants and ad hoc experts. A number of tasks may be of a discrete nature, which make them amenable to be performed by short-term external consultants or by a group of ad hoc experts, rather than requiring longer-term services of a Professional staff on board. In order to achieve maximum cost-effectiveness, effective utilization of the services of consultants and ad hoc experts should be kept in mind.

Professional staff for administrative matters: self-administered institution

35. There is a wide range of administrative matters that need to be dealt with by any international institution. These matters involve planning and preparation of the work programme and monitoring and evaluation of programme performance; budgeting and financial control including budget preparation, estimation of assessments/contributions, accounting, and internal auditing; financial administration including treasury/payroll matters, collections and investments; personnel recruitment including recruitment of consultants and ad hoc experts; personnel administration and management; general administration and management of various types of services, such as office secretarial services, security services, building management, purchases and procurements, transportation, printing and reproduction, etc. Bearing in mind the imperative of cost-effectiveness, the requirements for administrative staff have been kept at the barest minimum level in the present paper. It is assumed that the following nine Professional staff members would be required for administrative matters: one Executive Officer, who would also be the head of administration, finance and personnel matters; one Finance Officer supported by one Associate Officer dealing with finance planning and control and another Associate Officer dealing with financial administration; one Personnel Officer supported by one Associate Officer responsible for recruitment and another Associate Officer responsible for personnel administration; one Administrative Officer supported by one Associate Administrative Officer responsible for general administration.

Professional staff for administrative matters: United Nations-linked institution

36. It is in the area of administration that the most significant saving can be achieved by the United Nations-linked institution as compared to the self-administered institution, because the whole range of administrative tasks mentioned above could be supported by the United Nations. Given the extent of support by the United Nations, it is assumed in the present paper that one Administrative Officer at a relatively lower level would be required to carry out the day-to-day administrative tasks.

General Service staff: self-administered institution

37. It is assumed in the present paper that senior management would be supported by three General Service staff, and the substantive Professional staff would be supported by 10 General Service staff including research assistants, secretaries, and information system/data base/library assistants. The Professional administrative staff would be supported by one finance assistant, one accounting assistant, two personnel assistants, one administrative assistant, six secretaries, one receptionist/telephone operator, two security officers, one messenger, one manual worker and one driver. These requirements call for a total of 30 General Service staff.

General Service staff: United Nations-linked institution

38. The General Service staff requirements would be considerably reduced, mainly because the extent of administrative work would be significantly less than in the case of the self-administered institution. It is assumed in the present paper that, in total, 17 General Service staff would be required.

39. Annexes I-A and I-B to the present paper contain the organizational chart of the self-administered institution and the United Nations-linked institution, respectively, along with post requirements. Annexes II-A and II-B present the corresponding staffing structures.

Costs of established posts and common staff costs

40. It is assumed in the present paper that the staff would be remunerated according to the common system of the United Nations system of organizations, as administered by the International Civil Service Commission (ICSC). It is also assumed that the staff at the General Service level would be recruited locally.

41. Costs of established posts - Professional and General Service - comprise net salary and cost-of-living allowance (post adjustment). Common staff costs include various elements, such as dependency allowance, contribution to pension fund, contribution to medical insurance plans, education grant, home leave travel, travel on appointment, installation allowance, etc.

42. Given the considerably scaled-down size and structure of the institution, the Secretariat carried out intensive research as to the commensurate level of remuneration of the Secretary-General and his Deputy. The practices and

experiences of international organizations charged with resource-related matters, and also having a limited range of functions, were studied. In this connection, analysis was carried out with regard to such organizations as the South Pacific Applied Geoscience Commission (SOPAC), the Commission on the Conservation of Antarctic Marine Living Resources (CCAMLR), the International Lead and Zinc Study Group (ILZSG), the International Bauxite Association (IBA) and the International Hydrographic Organization (IHO). To cite just one example, the Secretary-General of IBA is remunerated at a level equivalent to a D-1 post in the United Nations system.

3. Staff-related costs

43. Once the number and the level of staff have been estimated, a basis is obtained for estimating the cost of items which are in some way related to staff costs, such as consultants, ad hoc expert groups, general temporary assistance, overtime, travel and representation allowance. In the present paper costs for these items are estimated on the basis of budgetary experience of units of the United Nations which have comparable level and number of staff, except when indicated otherwise.

44. Consultants and ad hoc expert groups. With reference to paragraph 34 above, in the present paper provision has been made for consultants and meetings of ad hoc expert groups. However, in view of the special nature of the supplementary requirements as discussed in that paragraph, such provision has been made at an increased level in relation to a comparable unit.

45. General temporary assistance. General temporary assistance may be required to provide General Service level support services such as those of additional secretaries, library clerks, telephone operators, messengers, etc.

46. Overtime. Overtime requirements may arise to cover secretarial and other types of assistance during peak work-load periods, or as contingencies arise.

47. Travel. The requirements may arise for staff to travel for official purposes to attend meetings of various organizations whose work is related to that of the institution, as well as to carry out consultations, research, etc. Travel requirements in the case of the self-administered institution are likely to be higher than those of a comparable unit because the inter-organizational relationships may call for an increased level of travel; in the present paper account has been taken of this factor.

48. Representation allowance. Representation allowances are required for the Secretary-General, and these have been estimated on the basis of the "Standard Costs" of the United Nations system.

4. General operating expenses

49. General operating expenses of the institution include printing, rental and maintenance of furniture and equipment, communications, hospitality, provision of miscellaneous services, supplies and materials including library books and supplies, data processing supplies, etc. In the present paper estimates of costs for these items have been based on the budgetary experience of comparable units of the United Nations.

50. Rental and maintenance of premises. It is assumed in the present paper that office premises and facilities in Jamaica would be rented by the institution in the initial period. The estimate of costs for this item has been based on the experience of the Kingston Office of the Special Representative of the Secretary-General for the Law of the Sea.

51. A composite budgetary statement of the overall annual recurrent financial implications is presented in annex III to the present paper. The objects of expenditure are arranged in accordance with the standard allotment account code of the United Nations.

C. Conference servicing expenses

52. Conference service is a major item of expenditures, and these expenditures can vary markedly depending on the number and duration of sessions of the various organs of the Authority, the number of meetings in each session, the number of official languages, the documentation in the official languages and the requirements for summary records of the meetings. Accordingly, in view of the limited functions of the institution during the initial period, and bearing in mind the imperative of achieving economy while ensuring that the institution is able to carry out its functions efficiently, in the present paper the Secretariat has assumed the following meeting schedule (it should be emphasized that this meeting schedule is solely indicative and has been assumed for the purpose of calculating conference servicing costs - the actual requirements can only be determined, and decided on, at a time realistically close to the commencement of functioning of the institution): one two-week session of the Assembly every two years; one one-week session of the Council every year; and one two-week session of the Economic Planning Commission and the Legal and Technical Commission and any other organ of the Assembly/Council, to be held concurrently, every year. The annual two-week session of the organs of the Assembly/Council will be followed by the annual one-week session of the Council, which in turn will be followed by the two-week session of the Assembly every two years. The estimates of the costs of conference servicing for such a meeting schedule have been obtained on a "full cost" basis. The estimated costs of conference servicing in the year when the Assembly meets are $US 1,691,200, and the estimated costs of conference servicing in the other year are $US 1,210,300.

53. In addition to the costs of personnel, servicing of conferences involves expenditures on certain additional items, such as temporary assistance for meetings, overtime, travel of substantive staff, and general operating expenses including rental and maintenance of conference facilities and office space, rental

and maintenance of conference-related equipment, local transportation, communications, freight for conference-related items, and conference-related supplies and materials. In the present paper these expenditures are estimated on the basis of the experience of the Preparatory Commission meetings in Jamaica. The estimates on an annual basis are as follows:

Item	Annual expenses (Thousands of United States dollars)
Temporary assistance for meetings	55.4
Overtime	3.3
Conference-related travel of substantive staff	12.2
Rental and maintenance of conference facilities and office space	54.1
Rental and maintenance of conference-related equipment	19.5
Local transportation	16.8
Communications	5.8
Freight	12.4
Supplies and materials	8.7
TOTAL	188.2

54. It should be emphasized that if it is contemplated to "borrow" conference services from the United Nations, further analysis and consultations, in careful detail, need to be carried out with the Department of Conference Services of the United Nations.

D. Initial one-time capital outlay

55. At the outset, as the institution commences functioning, certain office equipment and furniture may need to be purchased rather than rented. Possible items falling under this category include electronic data processing equipment, usual furniture for the offices, transportation equipment, etc. These items obviously involve one-time expenditures and would not be reflected in the annual recurrent expenses. In the present paper a very rough estimate of one-time capital outlay for the self-administered institution is presented as $US 100,000, and for the United Nations-linked institution as $US 20,000.

E. Indicative nature of the estimates

56. It should be emphasized that the presentation in the present paper with regard to the organizational chart (annexes I-A and I-B), staffing structure (annexes II-A and II-B) and financial implications (sections III.C, III.D and annex III) should be viewed as indicative and far from definitive. A somewhat more precise estimate can only be made at a time realistically close to the commencement of functioning of the institution.

F. Summary of financial implications

57. As mentioned in paragraph 5 above, the financial implications for States Parties to the Convention are to be viewed within the overall institutional arrangements provided for in the Convention, involving the two new institutions, the Authority and the Tribunal, and the United Nations. The financial requirements of the United Nations for the fulfilment of the functions under the Convention will be met from the regular budget of the United Nations. The financial implications with regard to the Authority and the Tribunal are summarized as follows:

		(Thousands of United States dollars)	
A.	Authority		
	(i) Self-administered		
	(a) Recurrent annual expenditures	2 978.6	
	(b) Annual conference servicing costs	1 639.0	
	(c) Initial one-time capital outlay	100.0	
	Total:		4 717.6
	(ii) United Nations-linked		
	(a) Recurrent annual expenditures	1 658.2	
	(b) Annual conference servicing costs	1 639.0	
	(c) Initial one-time capital outlay	20.0	
	Total:		3 317.2
B.	Tribunal		
	(a) Recurrent annual expenditures a/		5 750.0
	Grand total:		
	(i) Authority: Self-administered + Tribunal		10 467.6
	(ii) Authority: United Nations-linked + Tribunal		9 067.2

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a/ Projection based on phased-in functions, contained in document LOS/PCN/SCN.4/WP.8, addendum to be issued.

Notes

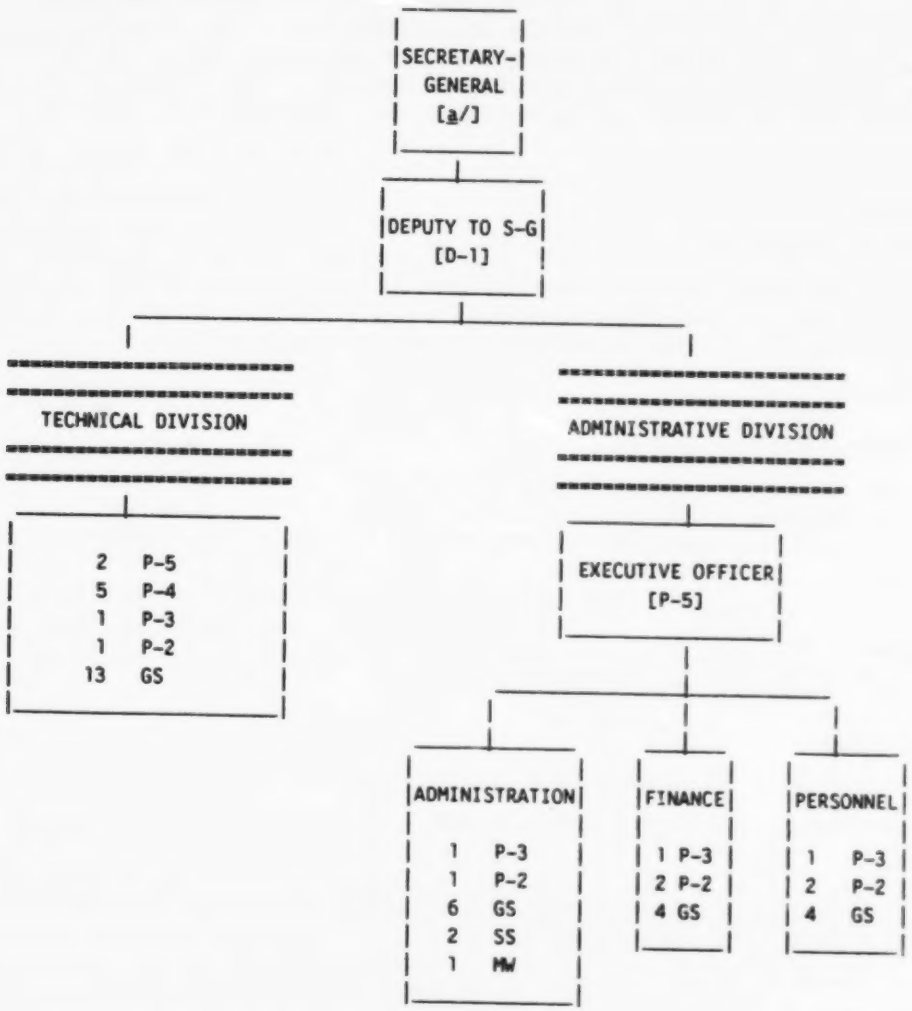
1/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XV (United Nations publication, Sales No. E.83.V.4), Documents of the Conference, document A/CONF.62/L.76.

2/ Law of the Sea Bulletin, No. 15, May 1990, p. 55.

3/ These documents include: LOS/PCN/WP.20/Rev.2, WP.26/Rev.2, WP.31/Rev.2 and WP.46; LOS/PCN/1990/CRP.38; LOS/PCN/L.1; LOS/PCN/SCN.1/1990/CRP.16/Rev.1, CRP.18/Rev.1, and CRP.19/Rev.1; LOS/PCN/SCN.2/WP.12 and WP.15; LOS/PCN/SCN.2/L.6/Rev.1 and L.7; LOS/PCN/SCN.2/1990/CRP.5; LOS/PCN/BUR/R.5 and R.6; LOS/PCN/SCN.3/WP.6, WP.6/Add.1-5, and WP.6/Rev.1 and 2.

Annex I-A

ORGANIZATIONAL CHART OF THE SECRETARIAT OF THE AUTHORITY
(SELF-ADMINISTERED)



POST REQUIREMENTS

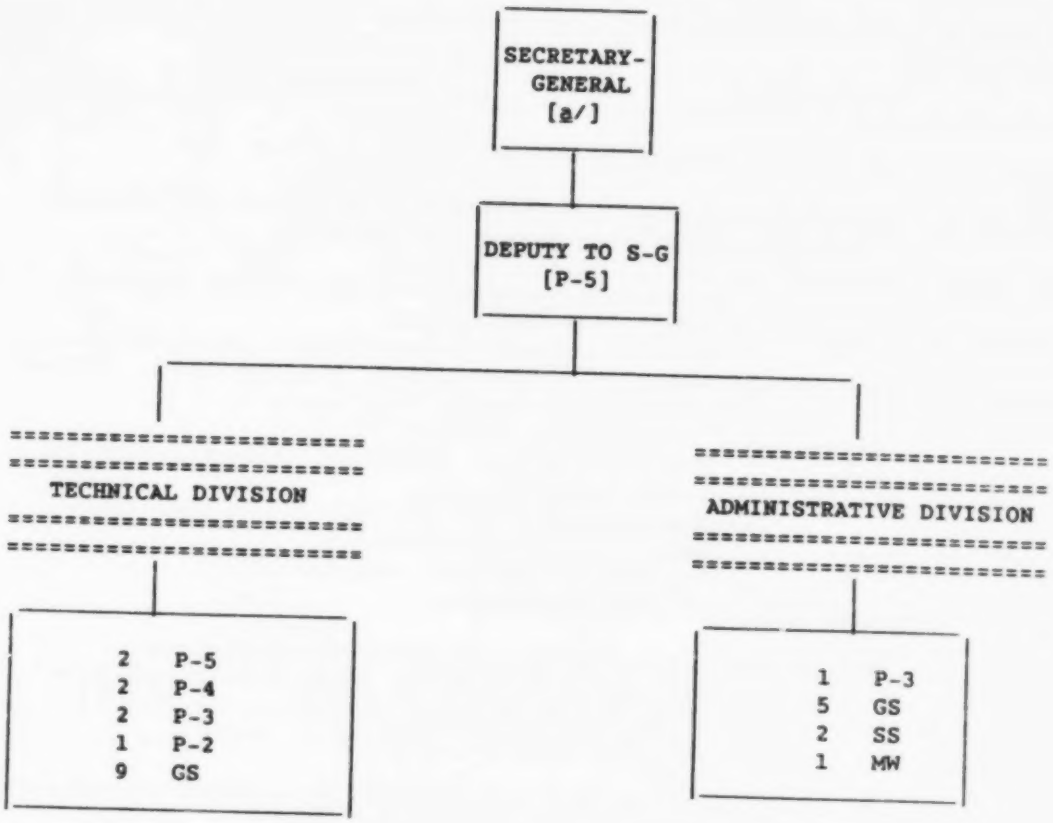
a/	D-1	P-5	P-4	P-3	P-2/P-1	Total Prof.	GS	GRAND TOTAL
1	1	3	5	4	6	20	30	50

a/ Level commensurate with the size and structure of the secretariat.

/...

Annex I-B

ORGANIZATIONAL CHART OF THE SECRETARIAT OF THE AUTHORITY
(UNITED NATIONS-LINKED)



POST REQUIREMENTS

a/	P-5	P-4	P-3	P-2/P-1	Total Prof.	GS	GRAND TOTAL
1	3	2	3	1	10	17	27

a/ Level commensurate with the size and structure of the secretariat.

/...

Annex II-A

STAFFING STRUCTURE OF THE SECRETARIAT OF THE AUTHORITY
(SELF-ADMINISTERED)

No. of posts	Level	Functions
1	a/	Secretary-General
1	D-1	Deputy to Secretary-General [Legal and External Relations, Public Information]
3	P-5	Marine Mining Specialist [Secretary, Legal and Technical Commission] Mining Programme Planner/Manager (Enterprise) Executive Officer [Chief, Administration, Finance and Personnel]
5	P-4	Mineral Economist [Secretary, Economic Planning Commission] Oceanographer - Marine Environment Specialist Law of the Sea Specialist Exploration Engineer (Enterprise) Information Manager
4	P-3	Legal Officer - Contract Law (Enterprise) Administrative Officer [Head of Administration] Finance Officer [Head of Finance and Budget] Personnel Officer [Head of Personnel]
6	P-2	Information System/Data Base Assistant/Librarian Associate Administrative Officer - General Administration Associate Finance Officer - Budget and Control Associate Finance Officer - Financial Administration Associate Personnel Officer - Recruitment Associate Personnel Officer - Personnel Administration
30	GS	Assistants/Secretaries/Others (27) Security Officers (2) Manual Workers (1)

a/ Level commensurate with the size and structure of the secretariat.

Annex II-B

STAFFING STRUCTURE OF THE SECRETARIAT OF THE AUTHORITY
(UNITED NATIONS-LINKED)

No. of posts	Level	Functions
1	a/	Secretary-General
3	P-5	Deputy to Secretary-General [Legal and External Relations, Public Information] Marine Mining Specialist [Secretary, Legal and Technical Commission] Mining Programme Planner/Manager (Enterprise)
2	P-4	Mineral Economist [Secretary, Economic Planning Commission] Exploration Engineer (Enterprise)
3	P-3	Oceanographer - Marine Environment Specialist Law of the Sea Specialist Administrative Officer
1	P-2	Information System/Data Base Manager/Librarian
17	GS	Assistants/Secretaries/Others (14) Security Officers (2) Manual Workers (1)

a/ Level commensurate with the size and structure of the secretariat.

Annex III

SUMMARY OF RECURRENT FINANCIAL IMPLICATIONS
(EXCLUDING CONFERENCE COSTS) a/

Objects of expenditure	Annual costs (In thousands of United States dollars) Self-administered	United Nations-linked
Established posts	1 483.4	812.8
General temporary assistance	8.4	4.2
Consultants	59.7	59.7
Ad hoc expert groups	80.0	80.0
Overtime	6.1	3.3
Common staff costs	731.2	400.7
Representation allowance	2.0	1.0
Official travel of staff	83.1	27.7
External printing and binding	44.4	14.8
Rental and maintenance of premises	400.2	216.3
Rental and maintenance of equipment	36.1	19.5
Communications	17.4	5.8
Hospitality	9.3	3.1
Miscellaneous services	1.2	0.6
Supplies and materials	16.1	8.7
TOTAL	2 978.6	1 658.2

a/ For financial implications of conference servicing, see section IV.C.